The Sydney Morning Herald.

"IN MODERATION PLACING ALL MY GLORY, WHILE TORIES CALL ME WHIG—AND WHIGS A TORY."

TERMS OF SUBSCRIPTION.
Sydney, Fifteen Shillings per Quarter. Single Numbers, Sixpence. Country, Seventeen Shillings and Sixpence per Quarter. Ten per cent. discount for payment in advance, and ten per cent. added if accounts are allowed to run over six months.

VOL. XVI THURSDAY, DECEMBER 28, 184?. No. 2065.

CASH TERMS FOR ADVERTISEMENTS
For one inch and under, Three Shillings, and One Shilling for every additional inch, for each insertion.

The only persons authorised to receive Moneys and Communications on account of the "SYDNEY MORNING HERALD" *(except at the Office of Publication, Lower George-street, Sydney) are* MR. JOHN HARRIS, *and* MR. WM. BALL, *Collectors, Sydney;* MR. JOSEPH HUNT, *Balmain;* MR. T. M. SLOMAN, *Bathurst;* MR. LABAN WHITE, *Windsor;* MR. HUGH TAYLOR *Parramatta;* MR. A. W. LARTHORP, *Maitland and Wollombi;* MR. JOHN BROWN, *Campbelltown;* MR. JOHN COLEMAN, *Penrith;* MR. FINCHAM, Postmaster, *Wollongong;* MR. ROBERT CRAIG, Cabinetmaker, *Goulburn;* MR. JOHN M'KINLAY, *Postmaster, Cassilis;* MR. JOHN GRAY, *Queanbeyan;* MR. ARTHUR BROWN, Deputy Postmaster, *Singleton and Jerry's Plains;* MR. WILLIAM PRITCHARD, Deputy Postmaster, *Liverpool;* ——, *Berrima;* MR. DAVISON, Surgeon, *for the District of Yass;* MR. PIERCE HEGARTY, *Musclebrook and Merton;* MR. WILLIAM BARNERD RHODES, *Wellington, for Port Nicholson and Cook's Straits, New Zealand; who are provided with Printed Receipts, with the written signatures of* "KEMP AND FAIRFAX," *who hereby give Notice that no other will be acknowledged for debts accruing from January 1, 1841.*

The "SYDNEY MORNING HERALD" *is Published every Morning (Sundays excepted;) and the Quarters end the 31st March, 30th June, 30th September, and 31st December; at which periods* ONLY *can Subscribers decline by giving Notice and paying the amount due to the end of the Current Quarter.* ADVERTISEMENTS *must specify on the face of them the number of times they are intended to be inserted, or they will be continued till countermanded, and charged to the party. No Advertisements can be withdrawn after Eleven o'clock, a.m., but new ones will be received until Nine o'clock in the Evening. No verbal communications can be attended to, and all letters must be post paid, or they will not be taken in.*

SPECIAL NOTICE.

THE Subscribers to this Paper, and the Public generally, are respectfully informed, that the following Rules are strictly adhered to:—

In Sydney.—No new Subscribers will be received without *one quarter* being paid in advance, for which ten per cent. will be allowed; the subscription in advance being 13s. 6d. per quarter.

In the Country.—No new Subscribers will be received without *half-a-year* being paid in advance, for which ten per cent. will be allowed; the subscription in advance being £1 11s. 6d. per half-year; and the Proprietors must be furnished at the time with a written undertaking that all future payments, both for subscription and charges of advertisements, shall be made in Sydney, or by the hands of an Agent.

In all cases, whether in Town or Country, the names of persons will be struck off the subscription list, when the arrears against them have stood over twelve months, and proceedings for recovering the amount due will be instituted.

No Advertisements will be received from persons who are not Subscribers without payment in advance, either by remittance or an order upon some responsible individual in Sydney.

In all cases of Insolvency, when the party is a Subscriber to this Journal, the name is at once erased from the Subscriber's Book; and if he wish to take the paper in future, he must comply with the rule affecting new Subscribers, and pay in advance.

STEAM TO CLARENCE TOWN, WILLIAM RIVER.

THE STEAMER *ROSE*, R. L. Pattison, commander, will leave the Hunter River Wharf on Saturday evening next, 30th December, at ten o'clock, for Newcastle; and will leave Morpeth on the following Monday morning, 1st January, 1844, at seven o'clock, for Clarence Town, William River, returning same day to Morpeth, when she will take her usual trip, on Tuesday morning, from Morpeth to Sydney.

FRANCIS CLARKE, Manager.

Hunter River Steam Navigation Company's Wharf, Sydney, December 26. 8591

STEAM TO MELBOURNE AND LAUNCESTON.

CALLING AT BROULEE AND TWOFOLD BAY, BOTH GOING FROM AND RETURNING TO SYDNEY.

NOTICE.—The Steamer *SHAMROCK*, G. Gilmore, Commander, will leave Sydney, for Melbourne and Launceston, on Saturday next, 30th instant, at 1 o'clock in the forenoon. Goods for shipment to be alongside by 12 o'clock on Friday forenoon; and passengers are requested to leave their names by the same time. for clearance at the Water Police Office. The *Shamrock* will go alongside the Wharf, both at Melbourne and Launceston, with Goods and Passengers.

FRANCIS CLARKE, Manager.

H. R. S. N. Company, Sydney, December 23. 8480

SWAN RIVER, WESTERN AUSTRALIA.

THE BRIGANTINE *VELOCITY*, will sail for King George's Sound and Swan River, This Morning, the 28th December, and will convey a mail, to those places. Letters must be put in the Post Office, before ten o'clock.

No. 4, Church hill. 8549

FOR HONGKONG.

THE A1 Swedish barque *SWARTWIK*, 365 tons, Captain Hjarne, will sail for the above port immediately after discharging her cargo. For terms of passage apply to the Captain, on board; or to A. B. SMITH AND CO

George-street, November 29. 7374

CHEAP PASSAGE AND FREIGHT TO LONDON.

THE fine fast-sailing frigate-built A1 barque *OCEAN*, 350 tons burthen, 563 tons register, James Ward, commander. The greater portion of her dead weight and cargo is engaged, and she will positively sail early in January, *full or not full.*

The remainder of her cargo will be taken at exceedingly low rates; AND SHOULD PARTIES REQUIRE IT, THE WOOL WILL NOT BE PRESSED.

This vessel is not three years old, has superior accommodations for passengers, and has engaged an experienced surgeon.

Cabin passengers at	£45	0	0
Intermediate	25	0	0
Steerage	17	0	0

Apply to the Captain, on board, off Deloitte's Wharf; or to

W. S. DELOITTE AND CO., Miller's Point.

N.B.—Wool for the vessel will be stored free of charge if needed. 8262

FOR LONDON.

THE SHIP *SARAH SCOTT*, Captain Black, having all her dead weight on board, and the greater part of her wool engaged, will have quick despatch. For freight or passage, having excellent cabins, apply to the Captain, or

CAMPBELL, HILL, AND CO.

FOR LONDON DIRECT, TO FOLLOW THE *PERSIAN*,

THE fast-sailing BARQUE *ANDROMEDA*, 408 tons, Captain H. F. Sutton. This vessel is a desirable opportunity for wool, as her inward cargo has turned out in first rate order. She has superior accommodations for a few passengers, cabin or steerage; and the greater part of her freight being engaged, she will meet with every despatch. Apply to the Captain, on board, to

COOPER AND HOLT, Waterloo Warehouse.

Or to MESSRS. CAMPBELL AND CO., Agents.

FOR LONDON DIRECT.

For Wool and STEERAGE Passengers only.

THE new first-class fast-sailing ship *PERSIAN*, 600 tons, C. P. Oppenheim, Commander. The greater part of this vessel's light freight is engaged, and as she will be despatched during the first week in January, early application is necessary to the Captain on board, to Campbell and Co, at the Wharf, or to

COOPER AND HOLT, Waterloo Warehouse.

7602

EXCHANGE UPON LONDON,

THE Royal Bank of Australia hereby give notice, that they will sell their Drafts, or Scotch Bank acceptances, payable in London.

J. P. ROBINSON, Resident Director.

Office, No. 2, Church-hill. 5887

NOTICE.

A GENERAL MEETING of the Shareholders in the "Hunter River Auction Company" will be held at the offices of Mr. John Turner, Solicitor, East Maitland, for the purpose of winding up the affairs of the said Company 8505

IMPORTANT NOTICE TO THE PUBLIC. TEETH.

MR. J. EMANUEL, Surgical and Mechanical Dentist, begs to inform his Patients and the Public in general that having received a large supply of Mineral and Natural Teeth from Paris, he is enabled to reduce his charge of supplying Artificial Teeth from £2 2s. to £1 10s. each Tooth; he trusts that this low scale of charge will suit the depression of the times. Also, the charge of Drawing Teeth (the usual charge being 5s.) to 2s. 6d.; the Dentist being preferred to the Chemist.

Artificial Teeth, guaranteed to answer every purpose of articulation and mastication, fixed without extracting stumps; also, sets of Teeth by self adhesion without springs or clasps.

Every operation incidental to Dental Surgery. Loose Teeth fastened, arising from neglect or the frequent use of calomel. Mr. Emanuel's Cement for stopping Decayed Teeth, however tender, without the slightest pain; the tooth warranted to keep the same colour. Those persons who have had their teeth stopped with any but the Cement of Mr. Emanuel will find not alone that the tooth is black, but the adjacent ones also. Mr. E.'s specimens having been much admired by several gentlemen of the faculty, he will be most happy to show any lady or gentleman his plan, without any fee for consultation. Mr. Emanuel's diploma, received from the Medical Board of Holland in the year 1836, to practise as Surgeon Dentist, can be seen daily.

LIST OF CHARGES.	£	s.	d.
A single Artificial Tooth	1	10	0
Stopping, Cement, and Gold Leaf	0	10	0
Cleaning Teeth	0	10	0
Drawing Teeth	0	2	6

At home from nine a. m. till six p. m.

Ladies attended at their private residence, by a note addressed to Mr. J. Emanuel, 8 D George-street North, opposite Bridge-street. 5983

REMOVAL.—The offices of the *Morning Herald* have been removed to premises in George-street, exactly opposite those recently occupied.

Sydney Morning Herald Office, October 4.

NORTH AND SOUTH AMERICAN COFFEE HOUSE

MR. SAMUEL DAVIES, eldest son of the late James Davies, deceased, and administrator to his estate, begs most respectfully to inform the members of the Subscription Room, from whom his late father received so many acts of support and kindness during his life-time, that he has determined to carry on the business of the Subscription Room in all its departments, as it has existed during the last sixteen years, as well as of the tavern and hotel, and he trusts, with numerous improvements, now in progress of fulfilment, with regard to the quantity, quality, and priority of information from every quarter of the world. To accomplish these objects no pains or expense will be spared; and Mr. Samuel Davies hopes, in consequence, that he will receive from the members of the Subscription Room some portion, at least, of that support which enabled his father to render it the centre of political and commercial intelligence.

Arrangements are in progress, and will speedily be completed, for placing in the hands of the members of the Subscription Room not only the earliest intelligence which may reach, Bristol, Liverpool, Falmouth, Portsmouth, Dover &c., but also by Mr. Waghorn's express, whatever can be forwarded by him from Egypt, India, and China, and at the same time as the news are received by the morning and evening newspapers.

It is confidently hoped that attention to the interests and wishes of the members of the Subscription Room will afford general satisfaction, and Mr. Samuel Davies begs further to state that for the accommodation of those who may honour him with their favours in the tavern and hotel department, or the North and South American Coffee House, he has laid in a complete wine stock of the most superb wines, spirits, malt and other liquors, which it is possible to procure and to which he begs to call their attention.

BOYD TOWN STORE, TWOFOLD BAY.

THE Settlers on Maneroo can be supplied with stores of every description, at Sydney prices. Wool, Sheepskins, and hides, taken in exchange 7219

YORK-STREET LIVERY STABLES, OPPOSITE THE CENTER OF THE MARKETS.

J. B. JONES begs leave to inform his old patrons and the public of New South Wales, that his New Establishment is open for the reception of Horses for Livery or Sale.

J. B. J. has for hire a most respectable private OMNIBUS, with good Horses and sober Coachmen.

Also, Gigs, Phaetons, and Saddle Horses.

York-street, December 7. 7786

AUCTION MART,

(Lower George-street, nearly opposite the *Herald* Office)

MR. THOMAS CROFT begs to apprise the merchants and tradesmen of the City of Sydney, also settlers and country storekeepers, that in addition to his present business of Commission Agent, he intends commencing as Auctioneer, at the above premises, and trusts by diligence and attention, to merit a share of public support.

The Sale Rooms will be ready in a few days, for the reception of every description of merchandise intended for public sale.

Mr. C. will be happy in the mean time to receive instructions for the sale of other property, from those friends who intend honouring him with their favours.

For the present, all sales will be effected for cash, and the proceeds handed over on the following day or immediately after the accounts can be made up.

Lower George-street, nearly opposite the *Herald* Office.

December 24. 8538

HUNTER-STREET BAZAAR, OPPOSITE MESSRS. FLOWER AND CO'S.

THE Ladies of Sydney and its vicinity are respectfully informed that the above is opened THIS DAY, Saturday, 23rd December, with a choice collection of Toys and Fancy Goods, well adapted for CHRISTMAS PRESENTS, THE CHEAPEST IN THE COLONY.

Hunter-street, December 23. 8496

CHEAP HATS,

FIFTY PER CENT CHEAPER THAN ANY OTHER HOUSE IN SYDNEY.

WARRANTED best quality London fashionable Black and Drab Gentlemen's Waterproof Hats, with broad and narrow brims, of all sizes and shapes, to suit every taste, 25s. each

Excellent colonial warranted waterproof hats, 8s.

Fashionable finer quality London hats, from 17s. to 15s.

Boys' and youths' super quality, 8s.

Boys' and youths' best superfine blue cloth caps, fashionable shapes, 7s 6d.

Gentlemen's navy caps, best quality, 10s.

Lambs'-wool hats, made from colonial wool, always sold at 15s., now only 10s. At UTHER'S

Old established Hat Warehouse, 87, Pitt street.

Persons sending from the country will please to look in the crown of the hat, where they will see the name of Uther, and the cost price, on a printed label. 7819

SLOPS.

EX *GENERAL HEWETT*.

STRIPED SHIRTS (extra large and stout)

Regatta shirts, boys' and men's

Moleskin and cord trousers

Duck frocks and trousers

Drab and blue shepherd's coats

Plush and Valentia waistcoats

The above on sale, at the lowest prices for Cash, at PITE AND PRESTON'S,

8148 Emporium, 34, Pitt street.

BARGAINS! BARGAINS!!

FLOOR CLOTHS, splendid patterns, 4s. per yard

Horse-hair Mattrasses, large size, 40s. each

Very best ditto, ditto, 80s. each

Cane seat Chairs, 4s. 6d. each

Toilet Glasses (best plates) from 10s. each.

AT H. JOHNSON'S,

6006 Corner of George and Market streets.

EX "ANDROMEDA."

JUST RECEIVED, and on sale at Moffitt's old established Wholesale and Retail Stationery Warehouse, 23, Pitt-street, Moffitt's patent Super-royal, Royal, Medium, and Demy Ledgers and Journals; Manuscript Music Books; Parchment, Cartridge, and Wrapping Papers, &c. &c. &c. Also,

MOFFITT'S AUSTRALIAN DIARY, FOR THE YEAR 1844. 8176

COLONIAL RUM.

THE undersigned have for sale, Rum of superior quality, at any strength. Samples may be inspected at the counting-house, George-street, next door to Messrs. Peek and Co, FISHER AND CO.

November 6. 6 86

JUST LANDED.

TWENTY BARRELS prime Devonshire Cyder, at two shillings per gallon by the package. A. & S. LYONS,

8529 Pitt-street.

HYSON-SKIN TEA.

300 CHESTS HYSON-SKIN TEA, at £2 15s per chest, warranted

At ISAAC SIMMONS',

8117 City Mart, George-street.

REDUCTION IN THE PRICE OF COAL.

NOTICE is hereby given that the price of Coal at the pit's mouth at Newcastle, from and after Monday, the 13th November, will be eleven shillings per ton; the ton containing thirty-two struck bushels.

PHILIP P. KING,

Commissioner for the Australian Agricultural Company.

ENGLISH OAKUM, AND MANILA CORDAGE.

ON SALE, at the stores of the Undersigned, English Oakum at 34s. per cwt., Manilla Cordage, 24s. ditto

WYER,

8409 Castlereagh-street.

INVESTMENT OF CAPITAL.

THE township of CAMBERWELL, lying in the direct line of road to the northern establishments, presents a splendid field for the investment of capital; and being the only place where travellers can refresh between Singleton and Muswellbrook, has advantages which few spots possess.

The Property consists of—

A first-rate INN, known as "The Queen," containing on the ground floor two parlours, tap, bar, and two bed rooms; two parlours and six bed rooms up stairs; and two cellars below the building, which is of stone on the ground floor, and brick above, being finished in a most substantial and neat manner, and occupied by a respectable tenant.

A weather-boarded HOUSE, formerly a public-house, containing eight rooms, in complete repair, and suitable, from the situation, for a store.

A slab building, containing three rooms, at present let to a respectable tenant, carrying on a lucrative business in the retail line—a general store.

The outbuildings attached to the inn (kitchen, stable, and coach-house) are of the first description; and there is a good substantial stockyard on the ground, which comprises two acres.

Title—A grant from the crown.

Terms—Less than one-half what it cost the proprietor. A purchaser will be dealt with liberally. Part of the purchase money may remain on mortgage for three years at ten per cent.

For further particulars apply (if by letter, post paid) to Mr. Adnum, George-street, Sydney; Mr. Johnston, Queen Inn, Falbrook, Hunter River; or, Mr. John Rotton, auctioneer, Singleton. 7691

A MIXED HERD OF CATTLE.

THE undersigned has for sale, by private contract, a Mixed Herd of Cattle, from one hundred to three hundred head, now depasturing between Braidwood and Goulburn, in first-rate condition. For full particulars apply to

JOHN G. COHEN,

Auctioneer and Commission Agent,

63, George-street, opposite the Market-place. 8540

IMPORTED BULL FOR SALE, of pure Durham breed. Pedigree and full particulars may be learnt by applying to

PEEK AND CAMPBELL, George-street.

**The owner is willing to take good cows in exchange 7008

WANTED, Conveyance to London, from the Bay of Islands, of forty tons, consisting of Gum, packed in cases, Wool and Bark. Application to Messrs. Thomas Barker and Co.'s Steam Mills.

December 26. 8565

WOOL.

TO MERCHANTS AND OTHERS.

THE undersigned will class and re-pack wool, during the wool season, either at his or any other store in Sydney.

N. B.—Purchases made as usual on commission. E. BENNETT, Wool Broker.

Sussex-street, Sydney, Nov. 13. 6571

MANEROO.

WOOL will be conveyed from Boydtown to Sydney during the season by regular packets, at ONE SHILLING PER CWT.; persons wishing to avail themselves of this conveyance, are to apply to Adam Boque, Boyd-town Store, Twofold Bay.

6189 No charge made for shipping or storage.

IN THE ESTATE OF THE LATE DR. T. B. WILSON, OF BRAIDWOOD, IN THE COUNTY OF SAINT VINCENT.

THE Creditors of the above Estate are requested by the Executors to send in the particulars of all claims thereon to the undersigned, without delay.

CARR, ROGERS, AND OWEN, Solicitors,

George-street, Sydney.

December 23. 8518

CAUTION.

NOTICE TO THE PUBLIC.

I, The Undersigned, hereby give notice, that I will not be accountable for any Debts, or Engagements of my wife. Ann Smith, (late Mobbs), there having been a Deed of Separation duly executed this day between us

Dated at Pennant Hills, Field of Mars, this 20th day of December, A. D 1843.

8528 WILLIAM SMITH

WANTED, an experienced indoor servant, who also understands the care of horses. None need apply who cannot refer to respectable parties in Sydney for character. Enquire of Lieutenant Colonel Gordon, at the Royal Engineer's Office, Lower George-street, from 10 to 4 o'clock.

December 27. 8567

DOUCEUR.—From Thirty to Forty Pounds will be given to any party who will procure for the advertiser, a PERMANENT mercantile situation of adequate value, either in town or country. Letters, which will be held confidential, addressed J. H., *Herald* Office, Sydney, stating nature of employment and salary attached, will be immediately attended to. 8577

TO BE LET, for such term as may be agreed upon, the stores wharf, and premises (commonly called Cox's Wharf,) lately in the occupation of John Rostron Apply to Mr. Wentworth, t Campbell, Jun., and Co.'s, Bligh-street Sydney. 6447

TO LET, those capacious stores situated in Queen's-place, known as De Metz's bonded warehouse. Immediate possession can be given. Apply to

CAMPBELL AND CO.

Campbell's Wharf, November 6799

TO LET, a house and shop on the South Head Road, opposite the new Military Barracks Inquire of Mr. W. Beaver, St. James's Church. 79:2

TO LET, within one mile of the City, a House containing six rooms with large garden, fowl-houses, store, large yard, stabling, &c., with about eighteen acres of land divided into paddocks, nine acres in cultivation. Apply to Mr. James Wood, Wine and Spirit Stores, Pitt street South.

The Brig *MARTHA*, 121 tons, for freight or charter. 67.2

TO BE LET,

BRADLEY HOUSE, with eight and a half acres of ground, on the South Head Road, at present occupied by A. B. Smith, Esq. This is one of the most beautiful residences in the vicinity of Sydney. Apply at the office of Thomas Barker and Co., Sussex-street.

November 30. 7545

SALES BY AUCTION.

TO DRAPERS AND OTHERS.

JOHN G. COHEN will sell by auction, at his Rooms, George-street, opposite the Market, THIS DAY, the 28th instant, at eleven o'clock precisely,

Four cases printed muslins

One case brown hose

One case white and brown drills

One case striped and checked muslins.

Terms, Cash 8533

GOOD CITY PROPERTY, IN CAMBRIDGE-STREET, GIPPS WARD, FORMERLY CALLED GLOUCESTER-STREET.

MR. STUBBS is instructed to bring to Public Competition, at his Rooms at twelve o'clock, THIS DAY, the 28th of December, 1843.

The undermentioned valuable Building Ground, as per description given, viz.:—

All that parcel of Land, situate in Cambridge-street, formerly called Gloucester-street, commencing at the south-west corner of Thomas Wood's allotment, and bearing south 21° 30' east, twenty eight feet five inches; on the south by other land of John Hull, by a line bearing easterly seventy two feet three inches to Mrs. Mary Cooper's allotment; on the east by that allotment and Caleb Salter's allotment, by a line bearing south 30' east fifty-one feet three inches to Joseph Welch's allotment; on the north by that allotment by a line bearing west 15° south forty-one feet six inches; again on the west by Thomas Wood's allotment by a line bearing south 14° east twenty-seven feet, and again on the north by a continuation of Thomas Wood's allotment, by a line bearing westerly forty eight feet to the commencing corner, and containing by ten square perches.

Terms at sale. 8523

WITH ALL THE DIVIDENDS.

FIFTY SHARES IN THE ALLIANCE ASSURANCE COMPANY, £4 EACH PAID UP.

MR. STUBBS will sell by Public Auction, at his Rooms, at 12 o'clock, "precisely," THIS DAY, the 28th day of December, 1843.

LOT 1. 10 Shares Alliance Assurance Company,		£4 each paid,		£40
„ 2. 10 ditto	ditto	£4 „	„	£40
„ 3. 10 ditto	ditto	£4 „	„	£40
„ 4. 10 ditto	ditto	£4 „	„	£40
„ 5. 10 ditto	ditto	£4 „	„	£40
Total...............				£200

Any individual having resources to the amount of £200 may rest assured that the period has now arrived, when the safest channel of investing money is in buying Shares in this unpretending Institution; which from the careful management and sound principle of its excellent direction, lent the Government the other day £8000, and may be looked upon as the '*top of the tree*,' of all our Colonial Establishments

☞ "*A sure 10 per cent. per annum, and rising dividends.*" 8522

BY AUCTION.

IN THE ESTATE OF J. H. POTTS

By order of the Trustees,—under Act 5th Victoria, No. 17.—WM DAWES, T. W. SMART, J. HOLT.

MR. STUBBS has received instructions to bring to public sale, at his Rooms, THIS DAY, the 28th day of December, 1843, —sale to commence punctually at twelve o'clock, IN ONE LOT,

VALUABLE

LEASEHOLD HOUSES AND ESTATES

Viz.—All the right, title, and interest, in and to the undermentioned LEASEHOLDS

ADJOINING THE HYDE PARK AND PARRAMATTA-ROAD ESTATE.

The sale will commence with

Lot 1.—The Race-course Inn, now let to that popular sporting character and friend to the Turf—*Mr. Kerwin*, at £115 per annum.

Lot 2.—House and Ground, let to Mr. Hosking, engineer, at £20 per annum.

Lot 3.—House and Ground let to Mr. Steinheim, at £16 per annum.

Lot 4,—House and Ground, let to Mrs. Bateman, at £16 per annum.

Lot 5.—House and Ground, let to Mr. Jones, at £15 per annum.

Lot 6.—Orchard and five acres, let at £5 per annum.

Lot 7.—Hall's Cottage and four acres, let at £4 per annum.

Lots 8 to 11.—Four small Brick Tenements, newly built, and lately producing £12 per annum, each—£48 per annum.

Lot 12.—A Slab Cottage, lately let at £12 per annum.

Lots 13 and 14.—Two Cottages, and two acres each, lately let at £12—£24 per annum.

Lot 15.—The great BRICKFIELD PADDOCK of seventy six acres, forming the KILNS, with excellent materials for extending this profitable branch of industry, together with a good Shipping Wharf, and a Two room Cottage, valued at £100 per annum

Lot 16.—A useful Home Paddock of eleven acres, cleared for barley, stumped and fenced in, at £20 per annum.

Lot 17.—Cottage with four rooms, opposite Homebush, lately let to Mr. Brown, at £20 per annum.

Lot 18 and 19.—Two Cottages of four rooms each, and TWO HUNDRED ACRES of Land, well watered, and situate opposite the Homebush Race-course Gate, valued at £100 per annum.

Lot 20.—An excellent Bullock Paddock, adjoining Mr. Kirwin's, 10 acres, well enclosed and watered.

Lot 21.—100 acre Paddock, adjoining Mrs. Bateman's, well enclosed and fenced in.

AFTER WHICH WILL FOLLOW,

THE LIVERPOOL ROAD LEASEHOLD,

VIZ.,

All that public house and premises known as the WATERING-PLACE HOUSE, let to Mr. H. Styak, with 570 acres of land.

ALSO,

SEVEN COTTAGES, A BAKERY, AND SIX BRICK HOUSES.

THE PUNCHBOWL CREEK influences very much the value and superiority of these estates. Swamp oak, iron bark, and other useful timber, for all purposes, are ready at hand; and being so near both Sydney and Liverpool, the coaching and general business in the public line (especially) is sure to pay well both landlord and tenant.

THE SALE WILL CLOSE WITH

The offer of the following valuable Stock, positively to be knocked down to the highest bidder:—

42 Cows, branded I, HP conjoined

17 Heifers, two to three years

31 Steers, two to three years

1 Bull

7 Heifers, AC, from I, HP (conjoined) cows, twelve months

4 Steers, AC, from the same cows, twelve months

(Say 102 head, more or less).

And about twenty-five Calves, one to six months.

NOTE.—The above stock are now running at Mr. Archibald Campbell's Farm at BINOURA, Jervis Bay, and are cattle originally selected from the herds of Messrs. Macarthur, Lawson, and Wentworth. Terms at sale. 8200

A CAPITAL GRAIN OR DAIRY FARM, NEAR WALLIS'S CREEK, MAITLAND.

306 ACRES OF LAND, HAVING A PADDOCK OF 50 ACRES, THREE-FOURTHS FENCED IN.

MR. STUBBS is instructed by the Proprietor (whose description follows) to put up to public sale, at his Rooms, THIS DAY, the 28th day of December, 1843 (Sale at 12 o'clock)

This estate is one of those peculiarly eligible and well situated properties which claim the undivided attention of parties who wish to have all the incalculable benefits of a farming or dairy country—"ready to their hands," at an easy purchase, and without having to root out, in some wild or uninhabited district, an unprofitable, or unprotected locality. It comprises the above quantity of land, with

A NEWLY BUILT FARM HOUSE OF SIX ROOMS

which is lathed and plaistered—two sashes in each parlour, it is well shingled, and

TWO CHAINS OF PONDS

are described on it, with the additional advantage of

THE BUTTI CREEK

running through it. Much good timber prevails—as the apple, gum young cedar, &c.

TO BE INCLUDED IN THE SALE,

Thirty head of Cattle, mixed herd of the SEGENHOE BREED,

Two Mares } broken in
One draught horse }

The House is furnished at a cost of some £150, and will be included in the purchase.

Government Land is on two sides, and the Sugar Loaf and Wollombi country lies open for a good Run, the Government Reserve or PROJECTED TOWNSHIP, adjoining

THE MARKETS

of Maitland, about three miles and a-half off and of Sydney (via Greenhills) insure a ready daily market and quick despatch of all kinds of dairy or farm produce.

Terms—Cash. 8525

NEW ZEALAND.

PRINCELY DOMAIN.

MR. STUBBS will submit to public competition, at his Rooms, THIS DAY, the 28th day of December, 1843, at One o'clock,

By order of the Proprietor,

All that fine Princely Estate known as

CHATHAM.

Being an original divided portion of the island, on the HARBOUR SIDE, and accounted,—for locality, temperature of climate, and fertility of soil,—so exceedingly well adapted for the growing of English productions (the potato being reckoned superior to the Van Diemen's Land), that any person taking up the trade, and establishing himself here, what with supplying the whalers, and from his store supplying the inhabitants, chiefly Germans and English (the natives being only seventy-two, and they all Christians) there is no doubt but a very good fortune might be made here, especially under the present favourable promises of the new Governor.

Terms at sale. 8501

CARRIAGE AND GREYS

IN THE ESTATE OF F. D. O'REILLY.

(Under Act of Council, 5 Vic. No. 17.)

BY ORDER OF THE TRUSTEES

Holdsworth and Weekes.

MR. STUBBS will sell by public auction, at his Mart, THIS DAY, the 28th day of December, 1843,

SALE AT TWELVE O'CLOCK,

That Gentleman's well known superb "Turn-out" of an open Four wheeled Carriage with a pair of grey Horses—well matched, and altogether the neatest thing in Sydney.

Terms—Cash. 8510

EX *URGENT*, CAPTAIN THOMPSON, FROM CHINA.

ON ACCOUNT OF WHOM IT MAY CONCERN.

MR. STUBBS will sell, at his Mart, King-street, on FRIDAY the 29th December, 1843, at eleven o'clock precisely, the following goods, damaged by salt water, viz.:—

HR	One case § 7	containing 49 pieces silk handkerchiefs
	One case § 9	containing 34 pieces crape shawls
	One case § 11	containing 90 ditto ditto
	One case § 12	containing 280 crape scarfs
	One case § 15	containing 23 pieces pongees
	One case § 17	containing 18 pieces satin, twenty-five yards each
	One case § 18	containing 20 pieces satin, twenty-five yards each
	One case § 19	containing 40 pieces gauze

Terms at sale. 8558

EX "URGENT," CAPTAIN THOMPSON, FROM CHINA.

MR. STUBBS will sell, at his Mart, on FRIDAY, 29th December, 1843, at half-past eleven o'clock precisely,

HR

One case § 13, containing—100 Crape Scarfs

One case § 20, containing—

4 pieces Waistcoating

4 pieces Lustring

22 pieces Camlet.

Terms at sale. 8571

BY AUCTION, ON THE GROUND,

A HOUSE AT CHIPPENDALE, FRONTING BANK-STREET AND WATTLE-STREET.

Two front rooms. 12 x 13,

Two back ditto 12 x 9.

MR. STUBBS is instructed by the proprietor, to sell, on the Ground, at one o'clock, on FRIDAY, the 29th day of December 1843, by public auction.

The above very excellent house. It is well suited for a general dealer, or a small tradesman. THE FRONT ROOMS are neatly finished with marble mantle pieces, cornices, painted skirtings, doors, &c. The extent of ground is from 28 by 79 feet, more or less, all fenced in, and further rendered valuable by a good well of water.

Terms at sale 8521

SILK AND CRAPE SCARFS AND SHAWLS.

Ale and Hams, Vinegar, Chimney Glasses, Kegs Nails, Gentlemen's Wearing Apparel.

MR. SAMUEL LYONS will sell by auction, at his Mart George street and Charlotte place, THIS DAY, the 28th instant, at eleven o'clock precisely,

Silk and crape scarfs and shawls, bottled ale, hams, vinegar, chimney glasses, kegs nails, cutlery, braces and bits, curry powder, fools cap paper, feather beds, mattresses, crates crockery, gentlemen's wearing apparel, &c

Terms at sale 8581

1920-ACRE FARM ON THE WILLIAM RIVER.

MR. SAMUEL LYONS has received instructions from

MR. JOSEPH WYATT,

Who purchased the above Farm, on the 24th of May last, for Mrs. ROSETTA TERRY, by order of Mr. JOHN TERRY HUGHES,

TO RESELL THE SAME,

On FRIDAY, 29th instant, at Twelve o'clock precisely, at the Auction Mart corner of George-street and Charlotte place.

DESCRIPTION, AS PER DEED.

All that piece or parcel of land, containing by admeasurement one thousand nine hundred and twenty acres, be the same more or less, situate in the county of Durham and parish of ———, at Murrui, Upper William, commencing, at the north-east corner, on the River William, at a small flat called ' Murrui," and bounded on the east by a south line, by compass of one hundred and ninety-three chains fifty links; on the south by a west line, by compass, of eighty chains; on the west, by a north line, by compass, of two hundred and sixty-three chains, to the River William; and on the north by the River William to the commencing point; being the land promised to John Mann, on or about the 11th day of November, 1828, and of which he was authorised to take possession on the 13th October, 1829, as a primary grant, in lieu of a former selection of a like quantity, under the same promise, being also the land advertised as No. 514 in the Government Notice dated 27th July, 1839, in favour of the said Samuel Furneaux Mann, at the request of the promisee to be called "Downs."

To be sold subject to Mrs. Mann's dower.

This Farm has also been extensively improved. The land is good, and the situation eligible, being known to possess very numerous advantages.

The Auctioneer, in offering the above for sale, considers the mere description of the property sufficient to claim the attention of the public.

This country property has been greatly improved, and will, in the hands of judicious agriculturists, not only yield at present an ample return, but increase considerably in value.

Terms at sale. 8527

CATTLE.

IN THE INSOLVENT ESTATE OF H. T. SHELDON.

BY ORDER OF THE TRUSTEES.

MR. SAMUEL LYONS will sell by public auction, at his Mart, corner of George-street and Charlotte-place, on FRIDAY, the 29th instant, at eleven o'clock precisely,

A mixed herd of Cattle, well bred, and now running a little to the southward of Broulee, consisting of—

67 Cows }
11 Working Bullocks } 188 head, more or less
39 Heifers }
71 Bullocks and Steers }

The herd is from the best stock in the colony, and the Cows are broken in, and good milkers.

Terms at sale.

T. W. SMART,
SAMUEL LYONS,
Trustees.

8049

TRUMAN'S STOUT.

TO PUBLICANS, PRIVATE FAMILIES, AND OTHERS.

MR. MORT will sell by auction, at his New Rooms, four doors north of the Post Office, on WEDNESDAY next, the 3rd day of January, 1844, at twelve o'clock in the forenoon,

One hundred and sixteen hogsheads Truman's Stout.

The above will be sold in lots to suit purchasers. Terms at sale. 8576

BY ORDER OF THE MORTGAGEE.

MR. BLACKMAN has received instructions from the Mortgagee positively to sell by auction, at his Rooms, George-street Sydney, on MONDAY, the 8th day of January, 1844, at twelve o'clock precisely,

A highly valuable Estate, containing three thousand one hundred and ninety acres, and consisting of four grants as undermentioned, "situate on the banks of the Murrumbidgee River, in the County of Murray, near ' Limestone Plains;' the land is all fine open forest or rich alluvial flats."

1st. All those seven hundred and forty acres of land, situated in the County of Murray, parish of   , at Jeygalite, Isabella Plains; bounded on the north by a line east one hundred and twenty-four chains, commencing at the south-west corner of a measured portion of land containing six hundred and forty acres; on the east by a line south eighty chains to the northern boundary of a measured portion of land containing one thousand one hundred and seventy acres; on the south by part of the northern boundary of that portion being a line west ninety-two chains to the MURRUMBIDGEE RIVER.

2ndly. All that piece or parcel of land, situate in the parish of   , Jeygalite. Isabella Plains, in the County of Murray; containing by admeasurement one thousand one hundred and seventy acres, be the same more or less; bounded on the north by a line east one hundred and seventy-two chains, commencing at the south-west corner of a measured portion of land containing seven hundred and forty acres; on the east by a line south eighty chains to the north-east corner of a measured portion of land containing nine hundred and forty acres; on the south by the northern boundary of that portion being a line west one hundred and twenty chains to the Murrumbidgee River; and on the west by the Murrumbidgee River.

3rdly. All that piece or parcel of land, situate in the parish of   , in the County of Murray, containing by admeasurement six hundred and forty acres, be the same more or less, at a marked gum tree at the south-east corner of six hundred and forty acres applied for by Wright to purchase; and bounded on the north by that land being a line west eighty chains; on the west by J. Wright's seven hundred and forty acres, being a line south eighty chains; on the south by part of one thousand one hundred and seventy acres applied for by Wright to purchase, being a line east eighty chains; and on the east by a line north eighty chains to the marked gum tree at the south-east corner of six hundred and forty acres, applied for by Wright to purchase as aforesaid.

4thly. All that piece or parcel of land, situate in the parish of   , near Isabella Plains, in the County of Murray, containing by admeasurement six hundred and forty acres, be the same more or less, commencing at a marked gum tree on the north-east corner of Larryon's six hundred and forty acres; and bounded on the west by that farm, being a line south eighty chains; on the east by a line north eighty chains to the north-east corner of J. Wright's six hundred and forty acres; on the south by six hundred and forty acres applied for by W. Wright to purchase, being a line east eighty chains; on the east by a line north eighty chains to Murdock's two thousand acres additional grant; and on the north by that grant being a line west to the marked gum tree at the north-east corner of Larryon's six hundred acres aforesaid.

TERMS AND CONDITIONS will be declared at time of sale.

For further particulars apply to Messrs. Carr, Rogers, and Owen, Solicitors to the Mortgagee, George-street, Sydney, with whom the title deeds are deposited. 7911

ON ACCOUNT OF WHOM IT MAY CONCERN.

EX *GENERAL HEWETT*, HART, MASTER, FROM LONDON.

HEBBLEWHITE AND DAVY will sell by Auction, at their Rooms, Lower George-street, on FRIDAY MORNING, 29th December, at eleven o'clock precisely,

SE in triangle, 8 73 under,

Twelve dozen 6 x 4 gilt frame looking glasses

Eight ditto 7 x 5 mahogany ditto

Two ditto 6 x 4 ditto ditto

Five 4-12 ditto 6 x 4 red and black ditto

Twenty-nine 4-12 ditto 6 x 4 gilt frame looking glasses

Six 8-12 ditto 6 x 4 slides ditto ditto

Four 8-12 ditto 6 x 4 mahogany ditto

Four ditto 7 x 5 ditto ditto

Eight ditto red and black ditto

All more or less damaged by sea water.

Terms. Cash. 8579

TO DEALERS AND OTHERS.

ISAAC SIMMONS will sell by auction, on FRIDAY the 29th instant, on the Paddington Wharf, at Eleven o'clock precisely,

Two crates of cups and saucers, 150 dozen

Five crates of crockery, consisting of dishes, bedroom service, &c.

A quantity of cedar, in log and board

Hardwood

Office furniture

Blocks and tackle

Iron block and chain

Triangle, beam and scales, with a quantity of weights

Lard

Cheese

Butter

Pickles

Oatmeal

Cider

Hams

Teas

Tobacco

Bedroom chairs, paints, &c.

Terms at sale 8559

THE CELEBRATED ESTATE OF MOUNT MACQUARIE, COMPRISING ONE THOUSAND ACRES, IN THE COUNTY OF CUMBERLAND.

MR. LABAN WHITE has been instructed to dispose of, by public auction, in the month of January next, the above valuable estate. It is situated on the Eastern Creek, bounded by the extensive properties of Richard Rouse, Esq., Mrs. Terry, the late Rev. S. Marsden, and Captain O'Connell; and being approximate to the Windsor Road.

So soon as the surveyor has completed his plan (it being intended to apportion it out into farms), the day of sale, with full particulars, will appear in an enlarged advertisement, and lithographs circulated.

Windsor, 25th Nov., 1843. 7225

IN THE VICE-ADMIRALTY COURT OF NEW SOUTH WALES

Brown and others *v.* Cutter *Harriett*.

BY virtue of a decree of sale in the above cause, the Marshal will cause the said vessel, her tackle, apparel, and furniture, to be put up to sale, on TUESDAY, the 2nd day of January next, at 12 o'clock at noon, at the Royal Hotel, George-street, Sydney. Dated 23rd December, 1843.

ALFRED ELYARD,

Marshal of the Vice-Admiralty Court of New South Wales.

8560

National Library of Australia

http://nla.gov.au/nla.news-page1521101

SHIPPING INTELLIGENCE.

ARRIVAL.

From Port Macquarie, yesterday, having left on the preceding day, the steamer *Maitland* 103 tons, Captain Parsons, with 33 bales wool, &c. Passengers—Mr. A. B. Smith, Messrs. J. and I. Panton, Mr. and Mrs. J. Simmons, and family, two constables, and five prisoners of the Crown.

DEPARTURES.—None.

COASTERS INWARDS.

December 27.—*Rose*, steamer, 172, Pattison, from Morpeth, with 127 bales wool, 20 trusses hay, &c.; *Brothers*, 27, Campbell, from Lake Macquarie, with coals; *Jane Williams*, 33, Martin, from the William River, with 850 bushels wheat, 180 bushels maize, &c.; *Eliza Ann*, 33, Hunter, from the Manning, with 16,000 feet cedar; *Dove*, 13, Hart, from Brisbane Water, with shells; *Brothers*, 12, Turner, from Newcastle, with coals; *Ocean Queen*, 35, M'Intyre, from the Hunter, with 500 bushels maize, 600 bushels wheat, &c.; *Charles Webb*, 24, Croad, from Morpeth, with 600 bushels maize, 50 bushels barley, and 1 ton onions.

COASTERS OUTWARDS.

December 27.—*William*, 21, Bloxham, for Newcastle, in ballast; *Comet*, 34, Thrower, for the William River, with sundries; *John and Charlotte*, 93, Collins, for Newcastle, in ballast; *Rose*, steamer, 172, Pattison, for Morpeth, with sundries; *Brothers*, 27, Campbell, for Newcastle, in ballast.

CLEARANCES.

For New Zealand, the brig *Itana*, Captain Sanderson, with sundries. Passengers—Mr. and Mrs. Snacherberg, Miss M. Walsall, Mr. John Dickson, Mr. Robert Graham, and Mr. Airth.

For the Bay of Islands and Auckland, the schooner *Thomas Lord*, Captain Brown, with sundries. Passengers—Mrs. Greenaway, Mr. Palmer, Mrs. Beale, Mr. Whittaker, and Mr. Hayward.

EXPORTS.

December 27.—*Itana*, brig, 221 tons, Sanderson, master, for Auckland and the Bay of Islands: 13 cases pipes, 192 casks bread, 5 kegs tobacco, 90 bags flour, 20 cases brandy, 48 hogsheads brandy, 2 puncheons rum, 1 chest apparel, 1 case books, 73 trusses hay, 5 boxes starch, 5 cases mustard, 3 casks 12 barrels salt, 2 barrels bricks, 5 barrels oatmeal, 1 case cider, 1 case canvass, 1 case muslins, 1 barrel almonds, 3 barrels nuts, 5 cases wine, 1 case hardware, 5 boxes haberdashery, 1 case slops, 1 basket crockery, 1 trunk clothing, 1 box medicines, 1 bale bedding, 1 cask salt, 1 keg vinegar, 1 bag rice, 2 bags sugar, 1 box candles, 1 box tea, 1 case apparel, 1 box 2 casks 3 cases slops, 4 cases books, 2 cases slates, 1 case clothing, 1 hogshead porter, 1 case apparel, 8 boxes soap, 4 casks flour, 1 case clothing, 1 tea chest, 6 kegs paint, 2 boxes glass, 1 case turpentine, 1 case slates, 7 cases books, 9 bundles spades, 2 casks 1 case ironmongery, 1 case drapery, 1 bale blankets, 1 mare, 5 kegs 4 cases tobacco, 15 hogsheads Marsala, 50 barrels pork, 20 tierces beef, 50 boxes black tea, 6 chests congou, 28 boxes soap, 10 bags rice, 239 bags flour, 5 hogsheads porter, 7 barrels ale, and 5 cases lemon syrup.

The "Midlothian."—In the manifest of the *Midlothian*, for three ploughs, one case ironmongery, *Norris*, read "*W. Moir.*"

The *Isabella* and *Midlothian* were moved yesterday to Campbell's Wharf to be discharged.

The *Kelso* was towed yesterday, by the *Kangaroo*, from the Circular Wharf to off Armitage's, where she will continue loading for London. As the *Wilsons* is nearly a full ship, the *Kelso* will meet with despatch.

Water Police Office.—Notice is hereby given, that from and after the first day of January, 1844, this office will be finally closed. All agents and masters of vessels requiring to enter and clear vessels, or to discharge their seamen, [illegible]reby informed, that after this date t[illegible]ies will be performed by the Bench of Magistrates at the Sydney Police Office, George-street. H. H. Browne. Dated 27th December, 1843.

London Mail.—The *Standerings* being the next vessel for London, her mail will close at six o'clock on Saturday afternoon, and she will positively proceed to sea early the following morning.

DIARY

MEMORANDA FOR THIS DAY.

December.		SUN, rises	sets.	HIGH WATER. morn	even.
28	THURSDAY	4 53	7 7	2 6	2 30

First Quarter, Dec. 29, 3 m. to 1, morning.

SHIPPING ADVERTISEMENTS.

TO CHARTERERS, AGENTS, AND OWNERS OF SHIPPING.

In consequence of disputes, it is especially requested that any advertisement sent to this Office, will name the party to whose account it must be charged.

TO THE PUBLIC.

Subscribers to this journal, paying in advance, are reminded that they are only entitled to ten per cent. discount on paying punctually at the commencement of the quarter. Persons wishing to decline, must pay up all arrears. 8552

The Sydney Morning Herald.

THURSDAY, DECEMBER 28, 1843.

"Sworn to no master, of no sect am I."

PROROGATION OF THE COUNCIL.

The Governor will, in person, prorogue the Legislative Council at one o'clock today. The arrangements for His Excellency's reception will be precisely the same as at the opening of the House. Tickets, admitting ladies to the body of the House, can be obtained from the Speaker.

TRIAL WITHOUT JURY.

Mere accident prevented our anticipating the censures pronounced by our correspondent *O. P. Q.*, in yesterday's *Herald*, upon the clause in the Insolvent Amendment Act, to which he adverts with honest indignation. In the original copy of the Bill the clause in question is number 17. The preceding section sets forth certain offences on the part of an insolvent debtor which shall be deemed a sufficient ground for refusing him his certificate. The principal of these are—"Where the insolvent shall not have made a full and fair disclosure and surrender of his property, in possession, reversion, and expectancy; or shall in any other respect have wilfully violated or knowingly omitted to comply with the provisions of the said (Insolvent) Act; or shall have contracted any debt or debts without in fact intending to pay, or having had at the time any reasonable or probable expectation of being able to pay the same; or where, being at the time indebted, he shall have squandered his means, or unjustifiably made away with, or disposed of otherwise than *bona fide*, and for a valuable consideration, any of his property, or by habits of intoxication, gambling, or extravagance, have diminished his means of payment; or where he shall have unlawfully expended for his own benefit, or appropriated to his own use, any trust funds or other property of which he shall at the time have had the charge or disposition, as trustee, or as an agent only; or where he shall, in contemplation of insolvency, or knowing himself to be insolvent, give any creditor any fraudulent or unjust preference."

By the 17th clause it is enacted, that in any of these cases it shall be lawful for the Commissioner, if the circumstances appear to him to be such as call for punishment, to commit the insolvent to prison, there to remain until the next ensuing sitting of the Court in its insolvency jurisdiction. So far so good: but then comes the monstrous power complained of. It is enacted, that the Court (meaning the Judge) shall, at such sitting, proceed to enquire into and determine the matter, and shall, after hearing the insolvent, and also (*if justice appear* (i. e. to the Judge) *so to require*) any witnesses or other evidence which he may adduce in his defence, and the assignees or any creditor, *if the Court* (i. e. the Judge) *shall think fit*, in reply, either grant the certificate, or confirm the refusal thereof; and in the last mentioned case, it shall be lawful for the Court (i. e. the Judge) to sentence the insolvent to such punishment, not exceeding *imprisonment for one year*, or *imprisonment with* HARD LABOUR (!!!) for a term not exceeding *six calendar months*, as the said Court (i. e. the Judge) shall *think fit to award*."

We are really at a loss for terms in which to express our abhorrence of this frightful outrage on the liberty of the subject. Here is a long catalogue of numerous and diversified offences, some of them amounting to gross felony; others hovering on the almost imperceptible confines between guilt and venial imprudence; and nearly the whole of them depending upon matters of fact to be established by credible evidence; and yet they are all to be "enquired into and determined" by one man, that one man being empowered, upon the dictates of his own unassisted, irresponsible mind, to send the accused to prison for one whole year, or to *hard labour* for six long months! And, as if this were not despotism enough, that one man may, if he shall 'think fit,' absolutely refuse to hear one word of evidence in the prisoner's defence! What is this form of trial to be called? It is not trial by jury, nor even by assessors; it has not even the decent formalities of a Court Martial: we know not what to call it in English phraseology, nor where to find its parallel in English history, unless we go back to the dark days of the Star Chamber. To adopt the forcible language of our correspondent, "when we consider how many *professed* admirers of the Long Parliament there are in the Council, how many would-be Hampdens there are among our representatives, we cannot but feel astonished that this daring and unconstitutional dispensation of the trial by jury should have been allowed to pass a third reading without so much as a single comment." It is disgraceful to the Council—disgraceful to the colony—disgraceful to the age.

And most earnestly do we echo the appeal of *O. P. Q.* to the public spirit of the Governor. Surely His Excellency will never lend the sanction of the Queen's name to so flagrant a violation of British rights. If ever the ægis of Prerogative was required to interpose between the people and the blundering tyranny of their law-makers, its interposition is required now. Here is a law to supersede juries, to stifle evidence, to arm one man—because that man happens to be a Judge—with the tremendous power of trying, convicting, and sentencing free British subjects to twelve months' imprisonment, or to six months' imprisonment with *hard labour!* The thing is so monstrous, that we are sure the whole country will cry shame upon it.

LEGISLATIVE COUNCIL.

Wednesday, December 27.

The Speaker took the chair shortly after half-past three.

ASSENT TO BILLS

The SPEAKER communicated to the House that His Excellency the Governor had been pleased on behalf of Her Majesty to assent to the Ad Valorem Duties Bill, to the Doubly Convicted Offenders Bill, and also to the Water Police Act amendment Bill.

MESSAGES FROM THE GOVERNOR.

A messenger from the Governor was announced, and Mr. Private Secretary Parker was introduced and delivered to the Speaker three messages accompanying the Registry Bill, the Insolvent Debtors' Relief and Abolition of Imprisonment for Debt Bill, and the Tariff Bill.

These Messages having been read by the Speaker, were ordered to be entered on the minutes of the proceedings of the Council, and taken into consideration in the course of the evening.

POLICE MAGISTRACY.—YASS.

Mr. THERRY presented a petition signed by a large number of residents and proprietors of land within, and of stock beyond the boundaries, in and about the district of Yass, praying that the Council would reconsider the vote, the effect of which had been to deprive them of the services of their Police Magistrate. The petitioners set forth that without the active services of such an officer neither their lives nor property would be protected, as exertions were required in order to secure that protection which could not be expected from any unpaid magistrates. In presenting this petition, he, Mr. Therry, had no hope of affecting any change at present, and he presented it more as a protest on the part of the petitioners, who must necessarily be better acquainted than any other persons with the wants of their district, against the late proceedings of the Council. He now moved that the petition be read.

The ATTORNEY-GENERAL seconded the motion.

The petition was read and ordered to be received.

COUNCIL LIBRARY.

Mr. THERRY presented the report of the Select Committee of the Council appointed to superintend the formation of a library for the Council, and to expend the sum of £300, voted for that purpose by the Council. The report stated that at present there were but few books in the library, and those of little value, some were incomplete, others were not works of such authority as it was desirable to have. The report recommended that a number of books, which were mentioned, should be purchased to the amount of about £250, leaving the other £50 to be expended as opportunity might offer, in the purchase of any standard work of authority which might be offered at any of the sales in this colony. Further, the Committee recommended that the books, when purchased, should be placed under the charge of the Assistant Clerk of the Council, under the direction of the Committee, and that the room formerly used as the Executive Council Chambers should be fitted up for a library. In conclusion, Mr. Therry moved that the report now presented be adopted, and that leave be granted to the Committee to sit during the recess.

Dr. NICHOLSON seconded the motion, calling attention to a portion of the Report which had not been alluded to by Mr. Therry, which contained a suggestion that the home Government should be applied to for a variety of Parliamentary and other papers, which had been printed and distributed gratuitously elsewhere by the home Government.

The COLONIAL SECRETARY said, that such application had been made already, and he believed that the answer of the Secretary of State was, that he would recommend that the request should be acceded to. Whether that recommendation had been made, or what was the final result, he was not aware, but he would inquire into the matter. With respect to the motion for leave to sit during the recess, he did not see that, for a purpose such as this, there could be any objection, and he should therefore not oppose it.

The motion was agreed to.

The ATTORNEY GENERAL said, that he thought it desirable that all members should be placed in possession of the Report just presented; he was not on the Committee himself, and was not aware what were the recommendations of the Committee, and he therefore moved that the Report be printed.

Mr. THERRY seconded the motion.

The Report was ordered to be printed.

MUSEUM CURATORSHIP.

Dr. NICHOLSON said, that a petition had a short time since been placed in his hands, which he would now present to the Council. The petition was rather lengthy, and he would not delay the Council by reading the whole of it, but would endeavour briefly to state its objects. The petitioner was the Rev. W. B. Clarke, M.A., of Parramatta, and the petition set forth, that the Museum was established in 1836, by order of Lord Bathurst, and that shortly after the petitioner came out to this colony, and since 1838 held the office of Secretary and Curator to the Museum, from which he received certain emoluments; that by the recent vote of the Council, with respect to the Museum, there would in future be no allowance whatever for Curator or Secretary; and that the office had been abolished without any reference to the petitioner, and he thought that if reference had been made he could have shown reasons for continuing the office; finally the petitioner prayed, that as compensation was to be given to other functionaries whose offices had been abolished in the same way, some compensation might be given to him also. Dr. Nicholson bore testimony to the high scientific attainments of Mr. Clarke, stating in proof of the services he had rendered to the Museum, that during the period of his Curatorship, the number of specimens in the museum had increased from 1058 to 3914; the greater portion having been contributed by Mr. Clarke himself. He thought the claim was worthy of some attention; he was not aware that the allowance, which was trifling in its amount, for last year the sum was only £58 18s. 4d., had been done away with, until on speaking to the Colonial Secretary on the subject, he was informed, that it was expressly agreed, that there should in future be no allowance for Curator or Secretary; he would now move that the petition be read.

Dr. LANG seconded the motion for the reading of the petition. He stated, however, that he remembered perfectly well, that at the time the vote was come to for the Museum, it was distinctly understood that there was not in future to be any allowance for Curator or Secretary; and further, it was understood that the sum voted, £200, would only be sufficient to provide a proper place for the Museum, and for some small allowance for the Sub-Curator. He would take the opportunity to express a hope that the suggestion which had been thrown out before, namely, that the Museum should be removed to some central situation, would be attended to. At present it was most inconvenient—open only twice a-week, and in a locality which rendered it inaccessible to those who might be desirous to have reference to it, whether for the purposes of lectures upon natural history, or for other information.

The petition was read.

Dr. NICHOLSON moved, and Dr. LANG seconded, that the petition be received.

The COLONIAL SECRETARY wished to say one or two words before the question was put. He perfectly agreed with what had fallen from the honorable and reverend member for Port Phillip, that it was most desirable that the museum should be removed to some more convenient place; but he must inform the honourable member that the museum was not under the control or management of the Government, but under that of a Committee especially appointed, to whom the disposal of the funds voted for it was left, and it was for that Committee, therefore, to take such steps as were necessary to effect this desirable object. With respect to the petition now before the Council, he could only say that when the sum of £200 was voted towards the support of the museum, it was with the distinct understanding that no allowance was to be made for a curator. He could not, however, but regret that the valuable services which this gentleman had rendered should for the future be lost.

The question was put, and the petition was ordered to be received.

THE DISTRESSED IMMIGRANTS.

CAPTAIN DUMARESQ said, that before proceeding to the business of the day, he wished to make some enquiries of the Colonial Secretary, answers to which he thought it would be satisfactory to the public to receive. He would first ask whether those families who had been sent to Moreton Bay, with the assistance of the Government, out of the funds provided by the Council, had met readily with employment? In the next place, he would ask whether the Government had taken any steps to provide for, or had determined upon any plan of disposing of the immigrants who might now be every day expected to arrive in the colony?

The COLONIAL SECRETARY said, in answer to the last question, that the disposal of the expected immigrants had for some time formed subject of consideration for the Government. Enquiries had been instituted in the various parts of the colony as to where labour was likely to be required, and where the immigrants, when they did arrive, could be most advantageously located. The Government had as yet received no official intimation that these immigrants were coming, but the fact had been communicated through the public organs in such a manner that it would be vain for the Government to plead ignorance: and therefore every preparation had been made that could be, and he hoped that the Government would be prepared to dispose of them when they did arrive. He regretted to say that the information he had to give, in reply to the first question, was not satisfactory. He found, from communications which had been forwarded to him, from Moreton Bay and elsewhere, that the Government, the Immigration Board, and the Agent, had been much imposed upon by persons who had obtained free passages to Moreton Bay by representing themselves as distressed, and unable to get employment, while they had every means of subsistence at their command. In one case, a man named Lynch, a shoemaker, pretended that he could find no means of procuring subsistence, and went down at the expense of the Government, but no sooner had he arrived at Moreton Bay, than he took a store at a rent of £52 per annum, stocked it with one hundred and fifty pairs of boots and shoes, and was said besides to have £100 in gold; he avowed that he cared nothing for the Government or the Board; all that he wanted was a free passage, and that he had managed to obtain. In another case, a man with a family, when told that a person wanted to hire his daughter, refused to go to look for the situation—any body that wanted him or his daughter must come to him; in another case, a man and his wife had refused £25 a year with a double ration, and boldly asserted that the Government here knew that they had refused similar terms before sending them from Sydney, and that they would not engage at such rate. This course of proceeding would have the effect of seriously injuring those who really were distressed and willing to take employment, and he thought it necessary, therefore, to make these statements; and the facts showed how very liable the public was to be imposed upon when once a scheme of charity was commenced at the public expense.

Dr. LANG said, that the circumstance detailed by the honorable Colonial Secretary showed, at any rate, that if the members of the Board had all the eyes of Argus, they must have all been set asleep when these impositions were practised upon them.

The COLONIAL SECRETARY in reply to the last observation, said that notwithstanding the vigilance exercised by the Board, it was impossible to prevent imposition. In one of the very cases he alluded to, a certificate had been presented to the Board, certifying that the man had been out of employment for two months, and had no means of subsistence for himself and family; and this certificate was signed by Mrs. Chisholm. Argus himself would indeed be deceived when such means were had recourse to.

REGISTRY BILL.

The COLONIAL SECRETARY moved that the message received from the Governor, proposing amendments in the Registry Bill, be taken into consideration, and that the message be now read.

The message was read accordingly.

The House then resolved itself into Committee upon the Bill.

The Colonial Treasurer in the chair.

The COLONIAL SECRETARY proposed the amendments seriatim, and they were adopted as quickly as they could be put from the chair without observation.

The Bill having been gone through, the House resumed; the CHAIRMAN reported the Bill, and that the Committee had agreed to all the amendments proposed.

The amendments were confirmed by the House, and a deputation, consisting of the Speaker, the Colonial Secretary, and the Commander of the Forces, was appointed to convey a message to the Governor, informing him that the Council had agreed to all the amendments proposed by him, together with the Bill itself.

INSOLVENT LAW.

The COLONIAL SECRETARY next moved the consideration of the Governor's Message on the Insolvent Act Amendment Bill.

The Message was read. The only amendment proposed was the insertion in the 26th clause of the words, "and on actions of trespass, trover, or case," in order to supply a deficiency in the clause.

The House went into Committee, the Colonial Treasurer in the Chair, and immediately agreed to the amendment. The House resumed, the Bill was reported, and the amendment adopted by the House; and it was agreed that the deputation previously appointed should convey to the Governor a message informing him that the Council had adopted the amendment proposed by him in this Bill.

TARIFF BILL.

The COLONIAL SECRETARY moved that the House take into consideration the Governor's message on the Tariff Bill.

The message was read as follows:—

"Message from His Excellency the Governor to the Legislative Council, proposing an amendment in the Bill which has been presented to him for Her Majesty's assent, intituled 'An Act to alter and amend the duties of Customs payable in the colony of New South Wales, and on spirits distilled therein.'

"Gentlemen,—I beg to propose to you, that for the schedule attached to this Bill, and marked A, the following be substituted:—

"Schedule A.

"(Without distinction as to the place from which the article is imported.)

	s.	d.
"Sugar raw, or molasses, per cwt.	3	6
Ditto, refined	6	0
Wine, per gallon	1	0
Coffee, per lb.	0	0½
Tea, per lb.	0	1
Flour, per cwt.	1	3
Wheat, per bushel	0	6
All other Grain, per bushel	0	4"

The House resolved itself into Committee to consider the proposed amendments.

The Colonial Treasurer in the Chair.

The COLONIAL SECRETARY said, that it would be seen from the message that the Governor proposed to restore the duty on flour and wheat to what had originally been proposed by the Bill; namely, 1s. 3d. per cwt. on flour, and 6d. per bushel on wheat, which the Council had increased to 2s. 6d. and 1s. respectively. There were also some other amendments which he should submit to them afterwards.

The COLLECTOR OF CUSTOMS said, that he believed he might take it upon himself to say that his Excellency had proposed those amendments in order that the principle of the Bill might be saved; as unless these amendments were agreed to, he feared that his Excellency would refuse to pass the Bill. His Excellency was so averse to anything in the shape of a protective duty that he never would pass the Bill while it imposed the duty fixed by the Council on flour and grain: and his Excellency had gone so far as to say that he would rather give up his Government at once than pass a measure containing any such provision for duties as this did.

Mr. BERRY opposed any alteration in the schedule.

Mr. WENTWORTH said, that the course pursued by the Government appeared an extraordinary one. The Collector of Customs predicted that, even with the additional provision which had been made, the Government would still be a loser, in consequence of the lowering of the duties on spirits, and yet the Government refused the duties which the Council proposed. If the prediction were true, the Government must put up with the loss. He should not be dissatisfied if this Bill did pass; but it must pass in the shape that this Council had sent it up; and if not, the whole subject had better be deferred, and the duties allowed to remain as they were before. It was said that the Governor was strongly indisposed to protective duties: so were they all; but he should like the Governor to make out that 6d. a bushel was not equally a protective duty as 1s. a bushel; he should like to see this proposition demonstrated. He was prepared to deny that 1s. was a protective duty any more than 6d. He thought, however, that a duty of 1s. per bushel was likely to have a beneficial moral effect on the class of persons mostinterested; those who tilled the land, it would rouse their energies, give impulse to their ploughs, and an ample supply of good food would soon be raised from their fields; but he was not so insane as to believe that a duty of 1s. per bushel on wheat would act as a protective duty; the increase of competition would prevent this, and those who thought that this was a protective duty would find that they were mistaken. He was not at all disposed to submit to the Governor's dictation in this matter; either as to the decrease in the duty on wheat, or the increase in the duty on sugar. He thought the latter the most objectionable of the two, sugar was as much a necessary article of consumption as flour; and it must be remembered that this Bill provided no power for the Governor to suspend its operation so far as sugar was concerned, no matter what price sugar might rise to; while with respect to grain and flour, power was given him to suspend the duties at any time. There was another reason, however, why he did not like this Bill: the principal motive which induced the Council to pass it was in order to put down illicit distillation and smuggling, which was now carried on to an alarming extent, and to the great injury of the public; yet this bill was to wait a year or fourteen months for her Majesty's assent before it came into operation. The evil of illicit distillation had become so enormous that he thought the Governor would be perfectly justified in bringing it into operation at once; the Council ought to have expunged the clause reserving the Bill for Her Majesty's assent, and if the Governor could not have passed it in that shape, it ought at all events to have been accompanied by a resolution of this Council, expressing their strong opinion that it ought to come into operation at once. Seeing, however, that now that the Council had passed the Bill with this reservation clause, their deliberate opinion as to the proper amount of duty on wheat and flour was set at defiance; that it was attempted to impose a higher duty on sugar than they had thought proper; seeing, too, that the Bill could not come into operation for twelve or fourteen months, that therefore it was of no use passing it in its present form, as it would benefit neither the country nor the revenue; he thought that the best course to pursue would be to reject the bill altogether, to disagree from the amendments, and let the measure die of itself.

Mr. THERRY said that he concurred with the honorable and learned member for Sydney that the best course which could now be pursued would be to postpone the consideration of the subject altogether until the next session. No one could entertain a higher respect than he did for His Excellency the Governor, and he was sorry to differ from him on this occasion, and sorry to hear that His Excellency was so strongly opposed to the duties fixed by this Council, as appeared from the authoritative announcement which had been made by the Collector of Customs. He must contend, however, that such a duty here had no analogy whatever to the corn laws of England; to speak of the duties the Council proposed as similar to corn laws and protective duties at home, was to confound things altogether different. Here the Council was legislating for a new country, and a miserable country that must be that did not produce sufficient of the chief necessary of life; there was abundance of rich alluvial land and yet the plough was idle; and he considered that it was the bounden duty of the Council to give such moderate encouragement to agriculturists as would alter this state of things, seeing that such encouragement must in the end benefit the whole community. The duty proposed by the Council was not a protective duty; it created no monopoly, it favoured no one particular class at the expense of others. The duty of 1s. a bushel on wheat would not create an influential, aristocratical, oligarchical class here as the Corn Laws had done in England. The only effect would be to encourage the humble settler, who lived on his few alluvial acres and worked them with his own family; to stimulate him to greater exertion, so as to create a supply of food to bring to market in addition to what he raised for himself. He regretted much that his Excellency should have evinced so much opposition to the measure, and he thought that it would be better to postpone it to an early period next session. In the meantime his Excellency's opinion might be changed; they might be able to convince him that such a duty was necessary, and would work good for the country. He regretted, as he had before said, to differ from his Excellency; he regretted that there should be any dissent or difference of opinion at this late period, when they had been given to understand that they should meet for the last time to-morrow; but as representatives of the people this Council must be supposed to know something of what the people wanted, and they all knew by experience that it was not always those who were set to rule over us who were the best judges of what was necessary. Not many years ago an order was sent from Europe to discontinue the construction of siloes, because it was said the stores in them interfered with the course of free trade; but at the very time the order arrived the colony was suffering the utmost distress from want of wheat, and fears were entertained that rice would not hold out long enough for fresh supplies to arrive. It was therefore absurd to speak of the principles of Free Trade, as applied in the same way to England and to this country. This was a new country, and as such it must be legislated for, and if protection, or encouragement, or whatever else honorable members chose to call it, was required, it ought to be given. Hearing however, the emphatic manner in which the Governor had dissented from this Bill, he thought the best way would be, as suggested by the honorable member for Sydney, to disagree with the amendment, and let the whole subject stand over until the next session.

Dr. BLAND contended that there was no difference between this country and England, as to the effect of Corn Laws. If, indeed, the same facilities were afforded here for obtaining possession of land as were afforded in the United States, then he might have less objection to a corn law; the evil would work its own cure, and in a short time the act would become a nullity. In consequence of the large amount of competition in the food market which would result from the numbers of those who would enter into agricultural pursuits. Here, however, the waste lands of the Crown were unsurveyed; there were no small portions marked out for sale and occupation; and the only land in fact which could, for some time at all events, be brought into cultivation, would be the property of now landed proprietors. To call such a tax by its proper name, it should be called a tax for the relief of landlords; and he was not aware of anything which redounded more to the honour of His Excellency and his Government, than the way in which this measure, this attempt to tax the whole community, and that in the chief necessary of life, for the benefit of a class, had been met and opposed; and he hoped His Excellency would continue in the same mind, whether the Bill was disposed of now, or brought on again next session. As to the argument that sugar was almost equally a necessary of life as flour, he did not think it worth replying to; it must be admitted that sugar was comparatively a luxury; when there was abundance of milk it was not required at all. Bread, however, was always required; and he would prefer to have no duty at all placed upon bread—no charges whatever imposed except the mere expense, if expenses there were, of landing it. He thought that the duty proposed originally would be found extremely high, so far as Valparaiso was concerned; with respect to Van Diemen's Land, no one would think of imposing a duty on their wheat, as, however they might go on the mad course of legislation they had been pursuing, taxing our tobacco and other articles, it was no reason that we should imitate them for the sake of retaliation. Rather the Council by taking off the duties should teach our agriculturists to raise produce at the least possible expense, and then, being able to sell at the lowest prices, they would be sure to find ready purchasers. He protested against the introduction of the principle altogether, and, whether to be decided now or at a future time, he should vote against it.

Mr. ELWIN opposed the course proposed by Mr. Wentworth, on the ground that it would cause considerable embarrassment to the Government; a probable deficiency consequent upon a reduction in duties had to be made up, and must be provided for. In order to provide for this deficiency the Executive Government proposed a duty of 6d. a bushel on wheat; the Council, however, not content, doubled it, made it 1s., and still insisted doing so; it certainly was an unprecedented course to pursue. It was argued that the duty proposed was not a protective duty, that its effect would merely be to give confidence to small agriculturists; he objected to it on this ground also; the confidence it would give them would be that, at some future period, the principle being admitted, the barrier broken down, they would be able to get protection to any amount they desired, and, therefore, it ought to be opposed on the very threshold. Neither did he approve of too much encouragement being held out to very small settlers; he was not averse to small farms, properly so called, when the farmer could raise something more, either for store or for market, than was necessary for himself and family; but he objected to those very small farms, or rather patches, on the produce of which families depended for their year's sustenance, and if that failed they had no resource. The evils of the system had long been severely felt in the mother country, how much more would they be here? He had no intention of going into the subject, but wished to point out that it was absolutely necessary to go on with the Bill, or that the Government would be placed in a state of considerable embarrassment.

Dr. BLAND observed, that the majority of wheat growers were small farmers; and while they continued so, and remained on their own land, they were much more prosperous than when they became tenants, paying as much rent in one year as ought to purchase the fee-simple of lands when properly alienated.

Dr. LANG referred to the remarks made by him when this question was last before the Council, as to the reasons which might be urged in favour of high duties, and to the example afforded by Cuba of levying duties of this kind as a precedent which might with propriety be quoted in defence of this species of taxation. The circumstances of this colony were, however, he contended, very different to those of the countries in which these high duties had been imposed: and whatever name such a tax might be called by, he felt so strongly the certainty of its operation as a protective duty, that he could not vote in its favour. Seeing this, but feeling that much might be urged on both sides, he had not voted at all, leaving the question to be decided by the House according to the opinion of the majority. Since that time his attention had been directed to another view of the subject than any which had before struck him—namely, the injurious effect which the imposition of such a tax would have upon inter-colonial trade. The injurious effect of restrictive duties upon articles of colonial production, had been felt in the effects of the duty imposed upon tobacco imported into Van Diemen's Land, from this colony, but as soon as the attention of the Vandemonian merchants was called to this fact, meetings were called, and steps were taken, for procuring the repeal of the duty, rather than allow it to extinguish the inter-colonial trade in that commodity by its operation. The present duty upon grain, however, would amount to a complete prohibition of that imported from Van Diemen's Land; and the effect of this would be to provoke, not only the continuance of the duty upon tobacco, but the imposition of duties upon articles exported from this colony, as, for instance, upon stock, for which a great demand existed in Van Diemen's Land, owing to the extensive Government establishment which was kept up there, as well as upon wines, or upon any other commodity likely to become an article of export from this colony. At the same time that he could not agree with the hon. and learned member for Sydney upon the proposition of a tax so extensive as this upon the particular articles of consumption named in this portion of the schedule; he equally objected to the course recommended by the government in other respects; the proposed increase of the duties upon sugar he regarded as a measure of a most unjust and oppressive nature; and as it was admitted on the other side that a decrease in the Revenue, owing to the decrease in the spirit duties, was at most only problematical, the plea set up for imposing this additional tax to make up the falling off of the Revenue in that particular, was untenable. He once coincided in the opinion which had been expressed by an honorable member on that side of the House, that there was much reason to dread the formation in this country of a powerful aristocracy; but the crisis through which the colony was passing had relieved him from all fears of such a result, and among the distressing circumstances which were exhibited on every side, the most cheering prospect which he could see was the opportunity offering to the poor classes of the agricultural population of establishing themselves on small farms. (Hear, hear.) With reference to what had fallen from the honorable member from Charlotte-place upon this subject, he would remark, that the objection urged by that gentleman to the class of small farmers, did not apply to the class known by that name in this country, who were very differently circumstanced from the cotters of England and Ireland, for while the cultivated lands of the former were of the most contracted scale, the small farmer of New South Wales was generally the cultivator of 30, 40, or sometimes even 100 acres, a space which by the first mentioned class would be thought a large estate. (Hear, hear.) The main object on every side, in lowering the duties on spirits, appeared to be the suppression of the wholesale system of smuggling, which had hitherto prevailed throughout the colony, and the demoralising effects which it had produced; and it was admitted that the revenue would not, in all probability, be materially decreased by this reduction, inasmuch as the duties would be, in consequence, paid upon the whole of the spirits consumed. He could see no reason for increasing the taxation of the principal necessaries of life.

Mr. BOWMAN said, that he had not come to the Council prepared to take part in a discussion upon this subject, but he did not think that the duty of 1s. per bushel upon wheat and 2s. 6d. per cwt. upon flour, was at all too much. The imposition of these duties was no doubt a measure of revenue, but whether imposed with this view or for the purpose of protection to the agriculturists, such a measure was calculated to be highly beneficial in its results. The interests of that class of the community, labouring as they were at present under the deepest distress, no doubt required all the protection that could be afforded them, and such an increase in the duties upon flour, instead of adding to the difficulties of the artizan in obtaining a loaf, would be more likely to benefit him, by restoring a greater share of prosperity to the agriculturist, and thereby increasing his demand for other articles of production.

Dr. NICHOLSON wished that honorable members on the other side would be more consistent in their opposition, and declare at once whether they mean the increased duties to act as a protective tax, or for the mere purposes of revenue; as some of them had admitted its contemplated operation in the latter manner, while others absolutely disavowed any such intention. All, however, who had argued in favour of this tax, had utterly failed to show any substantial reason for its imposition; and the only ground upon which it could be at all advocated was a protective duty. If, however, a duty of this kind was imposed for the benefit of any one class of colonists, they would be compelled, in order to carry out that principle, to impose a similar duty upon all articles the importation of which tended to affect any branch of colonial industry—as, for instance, the imposition of a tax upon imported shoes, for the protection of the colonial manufacturer. All persons had either their weak or their strong points, upon which they were expected particularly to dwell when speaking upon any subject; and thus his honorable friend the member for Camden dwelt always upon the doctrines of Canning and Huskisson, while the honorable member for Sydney invariably gave them a denunciation of the practice of sending money from the colony for the purposes of immigration—a strong phillipic against the selling of land in large portions, and a great deal of argument in favour of the establishment of small farms. He was satisfied, however, that his honorable friend would be convinced by further enquiry of the fallacy of his views on these points, more especially upon that of the sale of land in small patches, which would in all probability be attended by the same bad consequences as had resulted from the same state of things in England and Ireland. He admitted that of all commodities in this colony land was the most abundant, and from this very abundance many possessors of large quantities of land were willing, as had been remarked during the present discussion, to dispose of it to persons desirous of converting it into small farms, for even less than they had originally purchased it for. Another point which had been referred to was the high rents at present paid for land, but he would contend that the higher the rent was the better the land was cultivated. This might appear a solecism, but it was abundantly borne out by existing facts: for the produce of the land in France, were rents were low, was much less than in England, where they were high. He objected to any tax at all upon corn, more especially to such an amount as was now proposed; and if they once commenced upon measures of this description there was no saying where they might end: for the districts of this colony in which, from variation of climate, or any other reason, the production of grain was most precarious, would have a good claim upon the House to impose a protective duty upon all grain competing with that grown in their particular district.

Mr. LOWE thought, that having adopted, at a former period of the session, an Address to the Crown, praying for a disallowance of the Van Diemen's Land Act, by which a duty had been imposed upon all tobacco imported into that colony from New South Wales, it would be absurd in the extreme if, in the same breath, that they complained of the steps of the Vandemonians, they gave the Home Government to understand that they had fallen themselves into the same error, by adopting a measure which would have the effect of prohibiting the importation of Van Diemen's Land grain. Much had been said as to the precise definition of the term protective, and it was not a very easy word, when used in this sense, to explain the meaning of; but he would state what he believed to be a test of the protective nature of any tax. All such duties, he thought, were protective in the same ratio as they had the effect of robbing somebody for another; for if they robbed nobody, they could not be what was called protective. If, therefore, hon. members opposite could apply this test to their proposition, and find that it would have no such effect, they might go home to their beds in the full knowledge of having proposed a measure solely of revenue, and not of protection to any particular class at the expense of the rest of the colonists. The present absurd proposition of increasing the duties upon grain would have the effect of robbing everybody, and by the remarks which had fallen inadvertently from many of the members who supported it, it was pretty clear that while they held it up as a mere measure for the increase of the revenue, they had cast their longing and lingering eyes to the prospect afforded of its benefiting a particular class by dipping their hands in the pockets of every other portion of the community. It was possible indeed that these honourable gentlemen might have gulled themselves into a belief that a greater amount of revenue would be required than those whose duty it was to come to them for such revenue had seen fit to ask for—that their duty as guardians of the public purse was to lavish the money of their constituents upon the Executive without being called upon for any such display of liberality. They might in all this be guided by their opinions in their present course, but if so they were honest fools. If, however, with a darkness of purpose on which they dared not allow the light of truth to dawn—an object which they were compelled to conceal from all, they were endeavouring under the mask of a mere measure of revenue, to introduce one of class legislation—one which he would denounce as likely to be attended with the most calamitous results, not only in this colony, but in every other part of the southern hemisphere, they would not be able to stop there. If protective duties were good for anything, they were only so far good as they tended to place every class upon an equality, and they would not only be compelled in consistency to tax every imported article which might be supposed to interfere with colonial productions, but to vary their taxes so as to place the various grain producing districts of this extensive colony upon a level with each other. No protection which they could establish would be half so effective in its operation as the natural barriers which were thrown around this colony by the mighty hand of Providence—the vast ocean which surged its shores, and separated it by an immense expanse of waters from every country from which exports affecting its commerce might be expected; and the almost impassable roads which threw difficulties in the way of a conveyance of imported articles into the interior. Why was it, that with all these natural protections, the colony had never yet become a grain growing country? Simply because its soil and climate were neither of them adapted to agricultural pursuits. It was true that by injurious measures of this nature, industry might be forced into this channel, but unless such means as this were resorted to, no such effect would ever be produced, and instead of following up the pursuits of agriculture in a country, where from the peculiar nature of the climate the prospects of the farmer might be blighted in a single night, the capital and labour of the colonists would be directed to that branch of industry for which the country was so peculiarly adapted, and upon which its prosperity in a great measure depended. He was much gratified to find that his hon. and learned friend the member for Sydney had become a convert to the orthodox doctrines of free trade, for which, during the present debate, he had expressed his advocacy; but he was greatly afraid that that honorable gentleman would be tempted to vacillate on this point, and that when he got up to reply, they would hear him argue as strongly as ever in favour of protective duties.

Mr. THERRY spoke at some length in support of the scale of duties contained in the Bill as it then stood, repeating and enforcing, by additional reasoning, the arguments which he had at first made use of. With reference to what had fallen from Mr. Elwin relative to the future operation of the measure, he contended that all the House was called upon to do was to legislate for those whose welfare they had to watch over, and leave the charge of future generations to those upon whom this duty might then devolve. He also contended in respect to the remark of Dr. Bland, that the measure was one for the protection of landlords, that no such class really existed, for the possessor of every description of property in the colony had to depend upon his own exertions for obtaining a remunerative interest in the expenditure of his capital, and he knew of one instance in which a large landed proprietor who was desirous when in England of borrowing money upon his landed possessions in this colony, had found a difficulty thrown in his way by the fact of his not possessing a rent roll upon which the payment of the interest could be secured. It was impossible, he argued, that gentlemen, who, like the honourable Member from Horbury Terrace, had but recently became residents in the colony, could be so well acquainted with its merits, as those who were either sons of its soil, or possessed from long residence a minute acquaintance with its real position and interests. He did not know whether the honorable gentleman had ever been in the District in which the honorable member for the Cumberland Boroughs usually resided, but if he had been there, he would have found, as he (Mr. Therry) had done, that the opinion of nearly every one of its inhabitants was in favour of a measure of this nature, and he would point to the support of Mr. Bowman, thoroughly acquainted as he must be with this subject, as a full and sufficient answer to all the eloquence of his honorable friend Mr. Lowe.

Mr. LOWE remarked, that he had never been at Windsor, which he presumed was the district referred to by the hon. and learned member for Camden, but he did not doubt that the inhabitants of that as well as every other agricultural district would be particularly anxious for the establishment of a protective tax in favour of their produce.

Dr. BLAND remarked, that he conceived his designation of the measure, by describing it as a Bill for the creation of rent-rolls, a true one, as he had no doubt, if adopted in its present shape, it would have that effect.

Mr. WENTWORTH said, that if the tax proposed would operate as a poll tax, as had been contended by his honorable colleague, it would be a tax of which he should himself have to pay a large share, as he grew but little grain, and was a purchaser of the article to a very great extent. He had been accused of vacillation and inconsistency on all sides of the House, but he might fairly retort upon those members who advocated the scale of duties proposed by the Government, that they also had been inconsistent. To be consistent they should reject a duty upon grain altogether: for if a duty of a shilling a bushel upon grain was a protective duty, a duty of sixpence per bushel must, *pro tanto*, be protective; and if the former duty was a robbery, a duty of sixpence must, at all events, be a robbery to the extent of sixpence upon all who paid it. The only course, then, for those free-trade doctors to have adopted with consistency, would have been to oppose the imposition of a duty upon corn altogether; and taunts of vacillation and inconsistency came with an ill grace from those who were themselves so open to a similar charge. He candidly admitted that the passing of a measure of this kind would be a check to the commerce between this colony and Van Diemen's Land, but it was not the fault of the House that it was so, being rather ascribable to the mandate of the Secretary of State, Lord Stanley, who had seen fit to prohibit any exemptions in the establishment of

particular duties. If he was a free agent, he should be most happy to propose an exception of Van Diemen's Land produce from the operation of this Act, for he so far agreed with the dogmas of the free trade advocates, as to think that the commercial relations of the two colonies should be wholly free and uncontrolled, and if he had had the charge of the present Bill he should have endeavoured to get clear of the Secretary of State's mandate by referring to Van Diemen's Land as a dependency, and consequently a part of this colony, or by some other means. The honorable member from Charlotte-place had rested his main argument in opposition to the proposed duties, upon the fact that the Government had asked for a lower rate, and that it was inconsistent with their position as representatives of the people, to impose a higher tax than they were asked for by the Executive; it must be borne in mind, however, that if the Government had not asked for the proposed duty upon that particular article, they had in making the proposition requested the levy of a higher tax upon sugar than the Council had thought fit to impose. If therefore, as was no doubt the fact, the revenue from this increased duty would not be greater than the aggregate amount originally asked for all the eloquence which had been exercised upon this subject must be misapplied, and while refusing the duty upon sugar which had been asked, the House, by increasing the duties upon grain and flour, were still complying with the wishes of the Executive, although in another shape. In a country like this, where tea was the only beverage which could be used by the majority of its inhabitants, sugar was as much a necessary of life as flour; and in this division of the proposed duty between the two articles, the Council had no doubt acted with a sound discretion. His honorable colleague admitted that the proposed Act would be inoperative if land was rendered easy of acquirement by the poorer classes of the community, but if this was his only objection, it ought at once to cease, for as had been before remarked, land adapted for agriculture could at the present time be purchased from private individuals at a much cheaper rate than from the Crown. So little was rural land in request, indeed, that the acquirement of it was open to all classes of people with the smallest quantity of money in their pockets. If therefore this measure would have the effect of conferring a share of prosperity upon a body of the most numerous as well as the most depressed class in the colony, while on the other hand, it contained a proper reservation empowering the head of the Executive to prevent its operating injuriously whenever circumstances deviated from their proper level, he would maintain that the House would exercise a sound discretion in adopting it, and he should contend for it if he was opposed by fifty Executives and fifty free-trade doctors with their most powerful arguments.

The Council then divided upon the motion, with the following result:—

Ayes.	Noes.
The Colonial Secretary	Mr. M'Leay
" Attorney-General	" Wentworth
" Commander of the Forces	" Berry
" Collector of Customs	" Bowman
" Auditor-General	" Lawson
Mr. Elwin	" Blaxland
" Bland	" Dumaresq
" Lowe	" Therry
Mr. Nicholson (teller)	" Coghill
	" Cowper (teller.)

For the motion 9
Against it 10

Majority against the motion.. 1

(Dr. Lang left the Council Chamber previous to the division.)

The COLONIAL SECRETARY then proposed that the duty upon grain should be reduced from 1s. to 6d. per bushel, and the motion having been put to the Committee was negatived in a similar manner to the above.

Dr. BLAND said, that as he had been charged with inconsistency, in not having opposed a duty upon grain altogether; and as he wholly coincided in the opinion that it was an article which ought to be freed from any such impost, he would move that the proposed duties upon grain and flour should be omitted. In making this proposition, the hon. member went over his former arguments as to the injustice of a tax of this description, and the evil effects resulting from class legislation generally, arguing also that it would be much better, by the construction of roads to all parts of the interior, to afford a facility to the growers of grain to convey their corn to the market, than to endeavour by the establishment of protective duties to afford them advantages at the expense of the rest of the community.

Mr. WENTWORTH suggested, that as the amendment proposed by the Executive had been negatived, the measure would fall to the ground, and things would remain as at present, with no duty at all upon grain.

After some further conversation, the proposition of Dr. Bland, not having been seconded, fell to the ground.

The COLONIAL SECRETARY next proposed, that instead of the duty of one farthing per pound, imposed upon sugar by the schedule as it then stood, the duty upon that article might be fixed at ½ of a penny per pound or 4s. 6d. per cwt., remarking, at the same time, that in making this proposition, the Executive was meeting the Council half way, the duty at present suggested bearing precisely that relation to the former ratio of the Government, and the decision arrived at by the Council.

Mr. WENTWORTH suggested that a measure of such vital importance as this, ought not to be proceeded in without the subject involved in it having previously been submitted to the enquiry of a Select Committee of that Council. The declared object of this Bill was to put a stop to illicit distillation, but they were destitute of any proper information as to whether it would effect that object, as well as with reference to its working in other particulars. No material inconvenience could be occasioned by its postponement until the next session, as it must at all events be postponed until it had been submitted for the Royal approbation or dissent, while by legislating in the dark as at present, they were not likely to make the measure so perfect as could be desired.

The COLONIAL SECRETARY then proposed, that the duty on sugar should be increased to three-eighths of a penny per pound, or three and sixpence per cwt., which was put and negatived.

The House then resumed, and an Address was agreed to, informing the Governor that the House had not agreed to the amendments proposed in His Excellency's Message; which was ordered to be presented to His Excellency by the Speaker, the Commander of the Forces, and the Attorney-General.

PROROGATION OF THE HOUSE.

The COLONIAL SECRETARY said, that it was the intention of His Excellency the Governor to come down and prorogue the House at one o'clock, and he should therefore at the rising of the House, move that it be adjourned to one o'clock on Thursday.

Upon the order of the day, for the further consideration of the Hawkers' and Pedlars' Bill being called, Mr. Wentworth, at the request of several honorable members, agreed to withdraw it until next session.

The House adjourned at eight o'clock until to-day, at one.

DOMESTIC INTELLIGENCE.

INSOLVENCY PROCEEDINGS.

WEDNESDAY.

Before the CHIEF COMMISSIONER.

PROOF OF CLAIMS.

In the estate of George Rowley, a special meeting: Acton Sillitoe, £340 10s. 3d.

In the estate of John Thom, a first meeting: Jacob Inder, £94 5s. 3d.

In the estate of Joseph Hickey Grose, an adjourned third meeting: an offer of 10s. in the pound, payable by instalments in 6, 9, 12, and 15 months was rejected; but the meeting allowed the insolvent to retain his furniture and wearing apparel.

In the estate of Bernard Aaron Phillips, a first meeting: the estate of Foss and Lloyd, £3 8s. 5d.; B. L. Guion, £6 13s. 6d.; T. T. Smith, £34; J. Kettle, (rent) £129 1s. 8d.; William Cloy, £5 14s.

MEETINGS FOR TO-DAY.

Edward Agnew, a single meeting, at half-past ten o'clock.
James M'Cooey, a special meeting, at ten.
Henry Carr, a single meeting, at eleven.
Elizabeth Reynolds, a single meeting, at half-past eleven.
Lawrence D'Arcy, a special meeting, at half-past one.
At Maitland.—Peter Hill Rapsey, a third meeting, at ten.
Chidley John Crofton, a third meeting, at half-past ten.

MEETINGS FOR TO-MORROW.

Ousley Condell, a third meeting, at ten o'clock.
Richard Alexander Wiseman, a first meeting at eleven.
Charles Miller Clarke, a single meeting, at half-past eleven.
David Sloane, a single meeting at, twelve.
Joseph Jones, a single meeting, at half-past twelve.
George Payne, a second meeting, at one.
Vincentz Zahel, a single meeting, at two.

NEW INSOLVENT.—The following estate was sequestrated on petition and affidavit, no schedule being filed: Vernon Charles Wilson, of Pitt-street, Sydney, land surveyor.

CITY COUNCIL.

A MEETING of the Council will be holden at the Town Hall, This Day, at three o'clock in the afternoon.

ORDERS OF THE DAY.

1. To consider such memorials and petitions as may be presented.
2. To receive reports from the Chairmen of the various Committees.
3. To proceed with the business still standing over, of which notice has already been given.
4. To consider the Report of the Special Committee of the 23rd instant, appointed to inquire into the duties and salaries of the officers and servants of the Corporation.
5. To consider the Report of the Water Committee, presented to the Council on the 18th December instant.
6. To consider the Report of the By-Laws Committee, presented to the Council on the 18th December instant.

NOTICES OF MOTION.

By Alderman FLOOD—

7. That a deputation be appointed to wait on His Excellency the Governor for the purpose of requesting that he will be pleased to point out the site for the New Town Hall.
8. That the Council do give the Board of Works Committee the power to pay the mechanics and labourers employed on the public works a portion of their wages, should they be prevented from working by wet weather; to take effect from the date of employing mechanics and labourers at the reduced rate of wages.

BAZAAR.—The great encouragement afforded the Ladies who conducted the Bazaar at the Royal Hotel, yesterday, and the large number of beautiful and useful articles still remaining unsold, have induced them to continue the sale until nine o'clock this evening. General satisfaction appears to have been given to all who visited the Bazaar yesterday, and it is hoped, that many who could not then attend, will *to day* honour the ladies with their presence, and make purchases.—*Communicated.*

ANNIVERSARY REGATTA.—The activity displayed by the parties concerned in the sailing matches on Boxing Day, seems to have operated as a stimulus to the Committee who have been elected to regulate proceedings for the usual Regatta on the 26th January. Subscription lists are now lying at the Dockyard, and most of the public offices in the City, to which several names are already appended for a good amount. As several new first class boats have been built for the occasion, it is anticipated that an unusual competition will take place.

HORSES FOR MANILA.—The *Trinidad* is taking in horses for Manila. She will not take above forty, thirty of which are on board, principally from the stud of Major Innes. We understand that the arrangements on board the *Trinidad* are very superior, as each horse will be taken out of his stall once every day. Good saddle horses are worth £70 at Manila.

DARING OUTRAGE.—On Monday evening about nine o'clock, Mr. H. Taylor, of Parramatta, was alarmed while lying on a sofa in the back part of his house, by a soldier making his appearance on the verandah, in uniform, with his musket in his hand; the soldier fixed his bayonet and called for the master of the house to come out immediately. Mr. Taylor refused for some time, but on going out was ordered by the soldier to stand; the piece being presented at him, and a demand was made for Mr. Taylor's money. Mr. Taylor asked him what he wanted, and he replied five shillings, and that he was "for the bush." Mr. Taylor told him he should have it, and put three shillings on the window-sill. He threatened to shoot the first that moved or attempted to give any alarm. Some of Mr. Taylor's family succeeded however in giving the alarm, and a young man named Paton came up, and while the soldier was drinking some brandy which Mr. Taylor had given him in order to keep him until assistance came, knocked his piece out of his hand, and he was soon secured. He was taken before the Bench at Parramatta on Tuesday, and committed to take his trial. The piece on examination was found to be loaded, and the soldier had besides fourteen rounds of ammunition on his person. His name is Murrell, of the 99th regiment.

CULTURE OF THE VINE.—We are glad to perceive the attention which the culture of the vine is attracting in this colony, as is witnessed by the number of publications on the subject which are in demand. A celebrated treatise, written by a Prussian named Kercht, has been published by Mr. Baker, which contains a large quantity of useful practical information on the subject. We are not sufficiently acquainted with the subject ourselves to express an opinion upon the modes suggested by Mr. Kercht, but as the Government of Prussia has officially recommended his work, after taking the opinion of a number of practical men, there can be no doubt of its value, and we strongly recommend all vine-growers to peruse it.

BELLS.—The tower near the Roman Catholic Cathedral for the bells procured in England by Archbishop Polding, is so far completed, that it is expected they will be ready for ringing on Monday. The ceremony of blessing the bells, according to the ritual of the Church of Rome, will take place this morning.

SYDNEY POLICE OFFICE.—WEDNESDAY.—Cassels *v.* Gordon. This was an information which had been exhibited against the defendant for having, at Sydney, knowingly purchased two hogsheads of illicit spirits from Mr. Gavin Ralston. The evidence had been closed on Tuesday, when the Bench intimated that in its opinion the defendant was guilty of the offence charged in the information, but as the penalty ordered to be inflicted by the Act was £100, together with a forfeiture of the spirits, and the prosecutor had only prayed for the £100, a difficulty arose as to its decision, because it was quite clear that less than the penalty awarded in the Act could not be given, nor could more be decreed than was prayed for. Mr. Brenan said, however, the Bench would take time to consider, and the case was again called on Wednesday, when the defendant was ordered and adjudged to pay a fine of £100, and that the spirits in question should be forfeited—the £100 to be paid to the Colonial Treasurer, to be by him appropriated as the Act directs, and in default of payment to be imprisoned in the gaol at Woolloomooloo for three months. Fourteen days were given to the defendant to pay the fine. Mr. Martin, from Mr. Nichols's office, then requested a copy of the conviction and all the proceedings, for the purpose of having the matter removed into the Supreme Court, as, after the sentence just awarded, it could not be allowed to rest there. Application granted, on the ground that the Bench would like to hear the opinion of the legal authorities, as to the interpretation to be put on 3rd Vic., No. 9, sec. 43, on which the information was based.

INQUEST.—Yesterday afternoon, at four, P.M., an inquest was held at Bath's public-house, "The Currency Lass," Brickfield Hill, on the body of William Howard, a freed man, aged about forty-five years, who, after taking a hearty breakfast, went into an adjoining watercloset, where he was found dead about eleven o'clock. According to the evidence given at the enquiry, the deceased had been a stonecutter, and a hard drinker, but for some weeks past all but out of employment—he had no property nor any relations in the colony. There was a small discoloration on the top of his breast, but as the whole of the evidence went to prove that for several days previous to death he had been perfectly sober, had not been engaged in any quarrel; and Dr. Hosking having deposed, as medical witness, that the mark adverted to was merely the effect of death, which had been caused by disease of the stomach, induced by previous habits of intemperance, the jury found a verdict of died by the visitation of God. After the enquiry was closed, an application was made for a coffin for the deceased, which the *Coroner*, with the concurrence of the Jury, ordered to be furnished.

EMIGRATION.—The *Cork Southern Reporter* says, "we understand John Besnard, jun., Esq., has been instructed to select about three thousand Emigrants; he has made arrangements to despatch two first class ships every month, commencing in October.

ORIGINAL CORRESPONDENCE.

SYDNEY BANKING COMPANIES.

To the Editors of the Sydney Morning Herald.

"Coming events cast their shadows before."

GENTLEMEN,—A good deal has been said, lately, about the disgraceful transactions of two of our Colonial Banks which have *gone* by *the board*, (*Query?*—of directors,) and a good deal more is likely to be *said* and *done* before the said establishments are *wound up*. I cannot help telling you of an incident which took place in one of the above Banks, between two and three years ago, to which I was an eye witness, and which made a considerable impression upon me at the time. I had some little business to do at the counter; and on this day *trade* seemed to be *slack*, for the Cashier was warming his seat of honour at the fire, and the clerks were most of them swinging on their stools, or chewing the feather-end of their pens. During this *lull*, a certain Joe R——— came into the Bank, having a basket of cut crystal on his arm, principally champagne and wine glasses of excellent quality, which Joe had picked up at some sale "werry cheap," and he wanted to give the "gen'lemen" *a real bargain*. One of the clerks (now in business in Sydney, and lately declared insolvent) came out to the front of the counter, and made a purchase of some *Champagne* and *Hock* glasses, and Joe got quit of most of the basketful to some of the other gentlemen. In the mean time jokes were bandied about, and a regret expressed by some that there was nothing to fill the glasses!

What would have been thought at home of such an exhibition in a Banking house? Would such a breach of *discipline* have been permitted? *I trow not*, as the *Monitor* used to say. To say the least, it was *very ominous*. Since those *rosy* days *champagne* has been turned into *real pain*, and *hock* has been *declined*.

Yours truly,
A LOOKER ON.

December 27.

ASSIZE ON BREAD.

To the Editors of the Sydney Morning Herald.

GENTLEMEN,—It is matter of surprise that a town like Sydney, with a population of at least 40,000 inhabitants, (including the suburbs), should still be without any regulations affecting the weight, sale, and price of bread; although I have been told that there was an assize on bread twelve or fourteen years ago, when the population of Sydney could not have numbered one-sixth of its present amount. The Act of Parliament 6 and 7 William IV., cap. 37, (which applies to Scotland,) regulating the assize and sale of bread, &c., is a very stringent one, and the penalties for breaches are very heavy.

I think too that the price given for wheat is out of proportion with the price charged for flour and bread, and the grower has the worst of it. In a late paper I find the following paragraph:—"Price of Bread. *According to the average price of wheat in the Edinburgh market*, the 4lb. loaf is to be sold at 6½d. *cash*, or if paid within one month; and 7d. credit." In July last, the price of wheat in the principal grain markets in Scotland, ruled from 6s. to 8s. per bushel, more than double the price that wheat at present fetches in Sydney, and yet the price of the 4lb. loaf here is 6d., *without any restrictions*; for I cannot call the by-law of our City Council an assize on bread. The sale of the *staff of life* ought to be regulated by an Act of Council, founded on the above Act of Parliament, as at present the bakers and millers are allowed to make laws for themselves, while the public suffer in consequence.

A SETTLER.

ENGLISH EXTRACTS.

LORD BROUGHAM.—Lord Brougham denies that he has any judicial aspirations. We thought he had evinced a hankering that way on the change of government in '34, when he stooped to ask the Tories the office of Chief Baron of the Exchequer, and general report has assigned to him a higher ambition since he has, by certain means, found favour with the present ministers; but in proof of the untruth of this suspicion, he refers to his refusal of an appointment, and the Chancellor vouches for the fact as follows—"The Lord Chancellor said he might observe, with respect to one remark of his noble and learned friend, that he (the Lord Chancellor) had stated on a former occasion that he thought it extremely desirable that a permanent president of the Judicial Committee of the Privy Council should be appointed, and he thought that no one was better qualified to hold such an office than his noble and learned friend who had last addressed the house. Some communication had taken place between himself and his noble and learned friend on this subject, and his noble and learned friend had declined such an appointment." Lord Brougham has, then, been offered by the Tories what he has not thought fit to accept. Perhaps the time has not come; or perhaps the desirable thing has not yet been within his reach; but this much we know for certain, that the once-dreaded enemy of the Tories is thought worthy of their favours. He has done much for them in a marvellously short time, in undoing a reputation which he was twenty-five years in making. He has given them the triumph of exhibiting what a false, hollow thing a professed patriot may be. They may now point to other popular champions, and say, "Let him be wounded in any point of pride or vanity, let him believe himself slighted and set aside, and the principles of a long life will melt as wax, and he will advocate all that he has opposed, and oppose all that he has advocated, cringe to old enemies, and venomously assail old friends."—*Examiner.*

GOVERNMENT GAZETTE.

TUESDAY, DECEMBER 26, 1843.

LAND SALE.

AT 11 o'clock of Wednesday, 10th January next, the following portions of land will be offered for sale at the Colonial Treasury, in Sydney, at the upset price affixed to each lot respectively. Deposit 10 per cent.

COUNTRY LOTS.

CAMDEN.—1. 24 acres, near Wollongong, Illawarra. 2. 27 acres, at Angel Creek, on the Cataract River. 3. 36 acres, same place. 4. 32 acres, same place. 5. 26 acres, same place. 11. 118 acres, at East Bargo, commencing at Allen's Creek, at the South-east corner. Upset price £1 per acre.

CUMBERLAND.—6. 33 acres, parish of Holsworthy, on George River. 7. 30½ acres, same place. 8. 24 acres, same place. 9. 43½ acres same place. 10. 47 acres, parish of Holdsworthy, at the confluence of George River with Mill Creek. Upset price £1 per acre.

SUBURBAN LOTS.

MACQUARIE.—1. 8 acres, 1 rood, and 10 perches, on the Hasting River, adjoining the town of Port Macquarie, allotment 22. 2. 4 acres, adjoining the Glebe, at Port Macquarie, allotment 1, in section 42 A. 3. 2 acres, 3 roods, and 34 perches, same place, allotment 2, in section 42 A. 4. 5 acres and 37 perches, same place, allotment 3 of section 42. 5. 3 acres, 1 rood, and 18 perches, same place, allotment 4 of section 42. 6. 3 acres and 35 perches, same place, allotment 5 of section 42. Upset price, £4 per acre.

LAND SALE.

AT eleven o'clock of Thursday, the 11th January next, the following town allotments of land will be offered for sale at the Colonial Treasury, in Sydney, at the upset price affixed to each lot respectively. Deposit 10 per cent.

TOWN LOTS.

MAITLAND.—1, 2. Half an acre each, allotments 15 and 16 of section 34. Upset price, £100 per acre.

GOULBURN.—3—5. 2 roods each, allotments 17—19 of section 20. Upset price, £8 per acre.

WOLLONGONG.—6—11. 2 roods each, allotment 1—4, 9 and 10 of section 18. Upset price, £10 per acre.

EDEN, TWOFOLD BAY.—12—21. 2 roods each, allotments 10—19 of section 5. Upset price, £20 per acre.

WINDSOR.—22—25. 1 rood each, allotments 10, 17, 18, and 21 of section L. Upset price, £50 per acre.

ABSTRACT OF SALES BY AUCTION.

We insert, for the information of the public, an abstract of all the public sales which take place

THIS DAY.

MR. STUBBS.—At his Mart, at 12 o'clock, Land in Cambridge-street, Leasehold Properties adjoining the Hyde-park and Liverpool-road Estates, a Farm and Stock near Maitland, the Estate of "Chatham," New Zealand; Shares in the Alliance Assurance Company, Live Stock, and a Carriage and Pair.

MR. S. LYONS.—At his Mart, at 11 o'clock, Silk and Crape Shawls, Wearing Apparel, Hams, Nails, &c., and a Horse.

MR. FAWCETT.—At his Rooms, at 10 o'clock, Drapery Goods.

MR. J. G. COHEN.—At his Rooms, at 11 o'clock, Drapery Goods.

MARRIED.

On Wednesday, 27th instant, at St. James's Church, Sydney, by the Rev. Robert Allwood, B.A., Mr. William John Row, Government Printer, to Frances Anne, eldest daughter of Mr. Alcock, printer, Jamison-street.

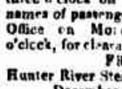
DEATHS.

At Stirling Castle, in May last, Lady Christie, wife of Colonel Sir A. Christie, K.C.H., Deputy Governor of Stirling Castle, Stirlingshire.

Also, at Bath, Mrs. Charters, (sister of the late Admiral Christie,) aunt to Sir A. Christie, and to the late John Steadman Christie, Esq., Captain H.R.M. 79th regiment, late Major in the service of Her Majesty the Queen of Portugal.

At Southampton, in July last, Mrs. John Palmer, widow of John Palmer, Esq., Westbourne, Sussex, eldest daughter of Sir John Wylde, Chief Justice, of the Cape of Good Hope.

MORETON BAY.



THE *JAMES WATT* Steamer will leave Sydney for Brisbane Town on Tuesday next 2nd January, 1844, at five o'clock in the afternoon. Shippers are requested to send their goods to the Hunter River Steam Navigation Company's Wharf, before three o'clock on the day of sailing, and the names of passengers should be given in at the Office on Monday, 1st January, by twelve o'clock, for clearance at the Water Police Office.
FRANCIS CLARKE, Manager,
Hunter River Steam Navigation Company,
December 27. 8633

STEAM TO THE MANNING RIVER AND PORT MACQUARIE.



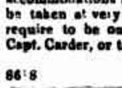
THE STEAM-PACKET *MAITLAND*, W. Parsons, Master, will leave the Commercial Wharf for the above ports THIS EVENING at six o'clock. All freight must be paid in Sydney on shipment.
Commercial Wharf, December 28. 8638

FOR PORT MACQUARIE.



THE PACKET SCHOONER *MARY ANN* will leave the Union Wharf on Saturday next. For freight or passage apply to the Master on board, at the Wharf, or
WILLIAM DALTON,
8637 Prince-street

FOR LAUNCESTON DIRECT.



THE fast sailing Brig *DAWSON* will sail on Saturday morning, the 30th instant. Has superior accommodations for cabin passengers, who will be taken at very moderate terms. Goods will require to be on board on Friday. Apply to Capt. Carder, or to
GEORGE SMALL,
8618 George-street.

FOR HOBART TOWN.



THE fine A 1 Packet Brig *LOUISA* is daily expected, and will meet with immediate dispatch. Apply to
JOHN MACNAMARA,
8599 Queen-street.

FOR FREIGHT OR CHARTER
TO ANY PART OF INDIA.



THE SHIP *GENERAL HEWITT*, 960 tons register, John Hart, Commander. This vessel is admirably adapted for the conveyance of horses, having unusually spacious 'tween decks, and is open to any freight that may offer.
Application to be made to the Commander, on board, at Botts's Wharf. 8616

SYDNEY RIFLE CLUB.
THE Annual Match of the Sydney Rifle Club, for a Prize Rifle, will take place, at the Red House, Parramatta River, on Monday, the 1st January, 1844.
Members are requested to be on the ground at half-past eleven o'clock, A. M. 8611

REMOVAL.
MR. MORT begs to give notice, that he is now in the course of removal to those extensive premises lately occupied by Messrs. Clarke and R. C. Gordon, opposite the Barrack Ward, four doors north of the Post Office, and that he will hold his first sale there on Wednesday next the 3rd day of January 8641

MR. JOHN GIBLETT begs respectfully to inform Merchants, Traders, Captains of ships, and Settlers, that he will be happy to receive consignments of goods or produce for sale by public auction or private contract. All sales will be for cash, and proceeds handed over the following day.
90, Pitt-street, opposite the Theatre. 8646

"COLOMBIAN."
CONSIGNEES by this vessel are requested to pass the entries for their goods this day otherwise they shall be passed, and the goods landed at their expense and risk.
December 28. 8603

IN THE INSOLVENT ESTATE OF WALTER STEWART.
A DIVIDEND of 4s. 6d. per pound will be paid to the creditors of this estate on application at the office of
ROBERT HOW,
December 26 George street. 8634

TENDERS.
NO satisfactory offer having been made to supply the Committee of the Benevolent Society with the undermentioned articles, Tenders from persons willing to furnish them will be received at the Asylum on or before Monday the 1st January next.
Flour (fine) at per 100 lbs.
Ditto, 20 per cent bran extracted, at per 100 lbs.
Bran at per bushel.
Mutton, best quality, at per lb.
Beef, fresh, ditto ditto, at per lb.
Twelve chests Hysonskin or Black Tea.
Five tons Moist Sugar.
One ton Rice.
One and a-half tons Soap.
The Tenders for Flour, Bran, and Meat to state whether for six or twelve months.
Samples will be required of the Flour, Tea, Sugar, Rice, and Soap.
G. ALLEN, Secretary.
Sydney December 27. 8621

Town Clerk's Office,
Sydney, December 27, 1843.
NOTICE is hereby given, that Tenders will be received at this office, up to the 1st day of January next for the supply of Stationery required by the Police Department, Sydney, for the six months from 1st January to 30th June, 1844.
Notice is also hereby given, that Tenders will be received at this office up to the 1st day of January next, for the supply of Printed Forms required by the Police Department, Sydney, for the six months from 1st January to 30th June, 1844.
The estimates and every other particular may be obtained on application at the Town Clerk's Office, any lawful day, between the hours of nine in the morning and four o'clock in the afternoon.
JOHN RAE,
8613 Town Clerk.

Town Clerk's Office,
Sydney, 22nd December, 1843.
NOTICE is hereby given, that Tenders will be received at the City Surveyor's Office, till Friday, the 5th day of January next, at 12 o'clock, for the supply of hand carts, hand-barrows, wheelbarrows, and tools, as undermentioned, for the service of the Corporation, for the year ending 31st December, 1844. Parties desirous of tendering may receive any further particulars, on application at the City Surveyor's Office, any lawful day, between eleven and one o'clock.

Hand-carts	each
Hand-barrows	ditto
Wheelbarrows	ditto
Picks	per pound
Mauls	ditto
Hammers	ditto
Wedges	ditto
Crowbars	ditto
Spades and shovels	per dozen
Maul handles, of swamp or rock oak	ditto
Hammer handles ditto ..	ditto
Pick handles ditto ..	ditto
Picks pointed	ditto
Picks steeled	each point
Hammers and mauls faced..	each
Blasting powder	per pound

The picks, mauls, and hammers, to be made of the best English iron, and properly steeled.
JOHN RAE,
8615 Town Clerk

COMMERCE HOUSE, CAMPBELL-TOWN.
IN consequence of the serious inconvenience arising from the difficulty of collecting outstanding debts, Mr. C. Beck has come to the determination of closing all credit accounts on the last day of the present year. Mr B. embraces this opportunity of returning his most sincere thanks to those friends who have so liberally supported him in Campbelltown for the last five years, and begs to assure them that he will spare no exertion to supply them with the usual variety of goods of the best quality, at the lowest possible prices, for cash only. All debts due to this establishment must be paid or arranged within one month from the 1st day of January, 1844, or legal proceedings will be taken against those who fail to comply.
Campbelltown, December 26. 8596

NO CREDIT.
IN consequence of the numerous disputes and difficulties arising out of the credit system in Sydney, and the many losses which the undersigned has sustained thereby, he has determined on closing his books with the present year. Therefore, on and after the first of January next ensuing, no credit will be given at his establishment. The undersigned hopes this arrangement will be equally convenient to his numerous patrons as to himself, inasmuch as it will save them from the constant visitings of those unpopular characters the dunning collectors.
C. M. PENNY,
8608 Chemist &c, George-street, Sydney.

LADIES' SCHOOL,
CASTLEREAGH-STREET, ONE DOOR FROM THE OLD COURT HOUSE.
MRS. COUSENS, in returning thanks for the patronage she has received since the re-opening of her Establishment for Young Ladies begs to announce to her friends and the public, that the Christmas vacation terminates on Tuesday, 2nd January, 1844. The terms will be found exceedingly moderate, to suit the pressure of the times. The system pursued embraces a sound English education, together with French, Music, Singing, Drawing, Dancing, and all the usual accomplishments. 8607

COMMERCIAL AND CLASSICAL SCHOOL,
WARDELL'S COTTAGE, PITT STREET,
Two Doors South of Bathurst-street.
MR. J. H. RUCKER begs to announce to his friends and the public generally, that the Classes of this Establishment will re-assemble on Monday, 8th January, 1844.
The course of instruction comprises, English Grammar Reading, Writing, Arithmetic, Geography and the use of the Globes, the Latin and French Languages, and Book Keeping.
TERMS, PAYABLE IN ADVANCE.
Boarders ...... £10 10s. per quarter.
Day Scholars .. £ 2 2s. ditto
Evening Classes are also formed for instruction in English, Writing, Arithmetic, Mathematics, Geography, Globes, Latin, and French. Terms, in advance, £1 1s. per quarter.
December 28 8632

WOOL SORTING.
THE undersigned is ready to receive Wool for assorting and classing, at his Stores, Miller's Point, and repacks it into the same bales, at one farthing per pound; if required, skin, pieces, and greasy wool, will be taken in payment, at the highest market price, for colonial manufacture. Cash advances obtained on bills of lading of wool, according to the exchange. Sales or purchases effected.
FREDERICK EBSWORTH,
Woolbroker,
Bligh-street and Miller's Point. 8624

NOW LANDING, ex *COLOMBIAN*, and for sale at the Stores of the undersigned—
76 hogsheads West India sugar
20 barrels and 40 half-barrels white herrings
30 barrels washing soda
30 boxes tobacco pipes
20 tons soda ash
290 barrels pale amber rosin.
R. W. ROBINSON
King street West, December 28. 8601

CASH! CASH!! CASH!!!
BEST PRICE GIVEN for second-hand Clothes, Dressing-cases, Writing-desks, Books, Linen and miscellaneous property of every description by
R. M. LINDSAY,
Vine Cottage, Kent-street, north of Erskine-street.
N. B.—A note addressed to the above, parties waited upon at their own residences. 8602

PUBLIC NOTICE.
THE Sale of Fancy Goods at the Royal Hotel, in aid of the funds of the NEW WESLEYAN CHAPEL, York-street, will be CONTINUED during THIS DAY, until nine o'clock in the Evening. Sale to commence at half-past ten A. M. 8627

FOR SALE, at the Stores of the undersigned—Cargo of Deals, ex *Swartwik*, from Gottenburg, consisting of—
1½ Inch,
Inch,
¾ Inch, and
½ Inch.
8617 A. B. SMITH & CO.

MAIZE AND OATS.
THE undersigned has for sale, a few hundred bushels of Hunter's River Maize. Also, Van Diemen's Land Seed Oats.
GEORGE RATTRAY.
Bathurst-street West, December 27. 8619

FOR CASH ONLY.
ON SALE, at the Stores of the undersigned,—
About five tons Preserved Meats and Soups.
Six hundred boxes Crown Window Glass of the following sizes: 24 x 18, 22 x 18, 22 x 16, 20 x 18, 20 x 16, 20 x 14, 18 x 14, 18 x 12, 16 x 14, 16 x 12, 14 x 10, 12 x 10, 11 x 9, and 10 x 8.
A. MOSES, Bridge-street.
December 27. 8600

NOW LANDING, ex *ADRASTUS*, Superior Marsala Wine, in quarter-casks, on sale at the Stores of
THOMAS SMITH AND CO
George-street, December 28. 8612

JUST LANDED,
AND ON SALE AT THE STORES OF THE UNDERSIGNED,
110 CASKS Baird's Scotch strong Ale, 4 dozen each, at 6s per dozen, in excellent order, and well got up.
Eighty bags Sugar. £13 10s. per ton.
Eight casks dry White Lead, (sound) 1½d. per lb.
JOHN CARFRAE,
Auctioneer and Broker,
8609 101, George-street.

EXTRAORDINARY AND CERTAIN PROFIT FROM A SMALL CAPITAL.
ANY person of respectability, desirous of investing from £100 to £200, or upwards, without the remotest chance of loss, and with every probability if not an absolute certainty, of *very large* profits at first, not increasing merely, but multiplying annually, with the rapidity of geometrical progression, may hear of an opportunity by applying to Messrs. Stenhouse and Hardy, solicitors, Elizabeth-street, who will communicate all necessary information. The terms proposed are an equal share in the concern, after the repayment of the first advance. 8606

COTTAGE WANTED.
WANTED, a small genteel Cottage, containing four rooms, in Clarence-street, Kent-street, or Sussex street, and having a view of Darling Harbour. Rent not to exceed £45 to £50 per annum. Letters addressed R. S., at the *Herald* Office, stating particulars, will be attended to. 8598

WANTED, for a few weeks, in an airy situation, in the neighbourhood of Sydney, three or four Furnished Apartments, or a small Furnished House or Cottage. Apply to R. M., 3, Morris's Buildings, Fort street, if by letter post paid.
December 27. 8622

A PRACTICAL BREWER, competent to manage the brewing department in a malt brewery, may meet with a liberal engagement for a term of years. A letter post paid, addressed MALT, *Herald* Office, partially stating what experience the party has had in the business, will meet with an early reply.
December 27. 8635

WANTED, a Steady Woman, who has been accustomed to the management of young children, to take the entire charge of a delicate baby seven months old. Also, a cleanly young woman, as housemaid and needle woman. No one need apply unless they can fulfil the above situations competently. Respectable *references* will be required. Apply to Mrs. G. H. Pollard, Glebe. 8610

TO GROCERS.
WANTED, A SHOPMAN; must understand his trade, and bring undeniable testimonials.
8636 ROBERT PORTER.

WANTED, from thirty to forty tons of the first quality Van Diemen's Land Flour, and from thirty to sixty tons of Valparaiso, if of good quality. Address, stating the lowest terms for cash on delivery (within the city), to X. Y. Z., *Herald* Office, will be attended to. 8628

WANTED, a Nurserymaid. Apply between the hours of 10 and 12 A.M., to Mrs. Ebsworth, Miller's Point, Sydney. 8623

SERVANT WANTED.
WANTED, to go to Moreton Bay, a steady woman, twenty-five or thirty years old, who is capable of washing for a small family, where another servant is kept, and who is willing to make herself generally useful. Enquire at the *Herald* Office for G.P.W. 8630

GIRL WANTED.—Wanted in a small family, a young girl, to make herself generally useful. Any one wishing for a permanent berth would find this a fair opportunity. Apply to P. J., *Herald* Office 8561

TO CAPTAINS AND OWNERS.
WANTED, a Steward's Berth.—Apply at Mr. Harden's Commercial Dining Rooms, Lower George-street. 8610

WANTED, a Groom and Coachman, also, a female House Servant. No objections will be made to a married couple. Testimonials of character, &c., required. Apply to Mr. Alderman Broughton, George street.
December 27. 8614

TO BE LET, in Liverpool-street, Hyde Park, a house containing nine rooms, coach-house, stabling, and a good well of water. For further particulars apply on the premises to Capt. Steel. 8604

THE LATE TEA PARTY AT THE OLD "HERALD" OFFICE.
"HONESTY IS THE BEST POLICY."
THE Person who took a Tuscan Bonnet, having a pair of borders pinned inside, lined with pink, and trimmed with figured ribbon of the same colour, is respectfully—but earnestly—entreated to return it to the owner, at No. 3, Druitt-street, 2 doors from Leggatt's Public house; on doing which, that left in place of the above (a common plat one, trimmed with blue ribbons, and minus a lining) will be restored. 8648

ADVICE TO A THIEF.
THE impudent thief who stole two plants from a small flower garden in Castlereagh-street near Market street, (is well known having been seen leaving the garden by a person on the opposite side of the street,) will do well to return the same without delay. 8597

LOST, on the 24th of December, a Green-leek PARROT, the property of F. Kosten, Butcher, Pitt-street. Whoever has found the same, on returning it to the above-named person will be handsomely rewarded for their trouble.
December 27. 8649

SALES BY AUCTION.

THIS DAY THURSDAY, 28TH DECEMBER.

TO DRAPERS, COUNTRY STORE-KEEPERS, DEALERS, & OTHERS.
R. FAWCETT will sell by public auction, at his Commercial Sale Rooms, adjoining the Bank of New South Wales, at ten o'clock precisely,
The following choice Goods, viz.:
One bale canvas trousers
One bale duck trousers
One case mousseline de laine dresses
Three cases gents' white shirts, linen collars and wristbands
One case white tucked muslin robes
One case sewed collars, trimmings, and insertions
One case ladies' rich embroidered robes
One case rich silk and wool challis
One case Scotch cambrics
One case Scotch cambric handkerchiefs
One case 4-4 dressed brown hollands
One case 4-4 undressed ditto
One case men's white cotton half-hose
One case ladies' fancy reticules
One case white sprig book muslins
One case ladies' white sateen French stays
One trunk gents' gambroon trousers
One trunk gents' assorted Valencia vests
One bale 65 inch grey sheeting
One bale 62 inch ditto
One bale 33 inch heavy grey shirting
One bale 26 inch ditto
One case black linen thread
One case assorted coloured ditto
One case 72 inch white sheeting
Two cases white shirting (Scotch make)
One case printed cotton and worsted shawls
Two cases white checked muslin
One case bleached linen, assorted diaper, and tablecloths.
Terms, cash on delivery. 8642

SHIP BISCUIT.
MR. SAMUEL LYONS will sell by Auction THIS DAY, 28th instant, at his Mart, George-street and Charlotte place, at eleven o'clock,
Twenty-five casks Ship Biscuit.
Terms at sale. 8626

A FIRST-RATE GIG AND SADDLE HORSE.
MR. SAMUEL LYONS will sell by auction, at his Rooms, George street and Charlotte place, THIS DAY, the 28th instant, at eleven o'clock,
A splendid Horse bright bay, with black points, and goes well in either saddle or harness.
Terms at sale. 8631

TO LINEN AND WOOLLEN DRAPERS, HOSIERS, AND OTHERS.
HEBBLEWHITE AND DAVY will sell by auction, TO-MORROW, at their Rooms, at Lower George street, at eleven o'clock precisely, a large assortment of merchandise, that remained unsold on Monday, consisting of
Men's brown half hose
Coloured and black ribbons
Linen shirting
White drill trousers
Unbleached ditto
Fine white linen drills
White shirts linen collars and fronts
Huckabacks and diapers
3-4 and 7-8 linen ticks
65 inch ditto ditto
India and British corahs
Cotton handkerchiefs
Wool-dyed black, rifle, and blue superfine cloths
AFTER WHICH,
Twenty casks, 3 dozen each, prime Devonshire cider
One case looking glasses
Two hogsheads basket salt
Guns, &c., &c.
Terms—Cash. 8539

PRIME DEVONSHIRE CIDER.
HEBBLEWHITE AND DAVY, will sell by auction, at their Rooms, Lower George-street, on FRIDAY next, 29th instant, at eleven o'clock precisely;
Twenty casks, 4 dozen each, prime Devonshire Cider.
Terms—Cash. 8647

RICHMOND RIVER CEDAR.
W. H. CHAPMAN, City Auctioneer, will sell by auction, on the Albion Wharf, Sussex-street, on FRIDAY, the 29th December, 1843, at eleven o'clock,
About 15,000 feet of Cedar, from the Richmond River.
Term at sale. 8640

JOHN G. COHEN will sell by auction, at his Rooms, 63, George-street, THIS DAY, at eleven o'clock precisely,
One case Silk Gloves, Mitts, Fringes, &c.
One ditto Book, Swiss, and Mull Muslins.
Terms, cash. 8629

MR. BLACKMAN will sell by auction, at Carter's Barracks, on FRIDAY, the 29th instant, at twelve o'clock, on account of Government,
Five Horses, considered unfit for the public service. 8625

TO SADDLERS AND OTHERS.
MR. CARFRAE will sell by auction, at his Rooms, 101, George-street, adjoining the Bank of Australasia, on SATURDAY next, 30th instant, at 11 o'clock,
Cart harness
Single and double bridles
Spurs
Whips, riding, jockey, and hunting
Circingles, rugs, &c., &c.
Terms—Cash. 8645

TO CLOSE AN ACCOUNT.
TO WOOLLEN MANUFACTURERS AND OTHERS.
MR. CARFRAE will sell by auction, at his Rooms, 101, George-street, adjoining the Bank of Australasia, on SATURDAY next, 30th instant, at Eleven o'clock,
Two cases fine Wool Cards.
Terms—Cash. 8644

TO SHIP CAPTAINS AND OTHERS.
MR. CARFRAE has received instructions to sell by auction, at his Rooms, 101, George-street, adjoining the Bank of Australasia, on SATURDAY next, 30th instant, at eleven o'clock,
Thirty-five tierces Beef, in the finest condition possible
Five ditto Tallow
The above Beef is from one of the best stations in the colony, situated on the Clarence River.
Terms, cash. 8643

IN THE SUPREME COURT,
Sheriff's Office, Sydney,
December 23, 1843.
HALL *v.* JOHNSTON.
THIS DAY, the 28th December, at noon, at Cox's Inn, Singleton, the Sheriff will cause to be sold, a quantity of Cattle Sheep, Horses, &c., with right and interest of Stations at Liverpool Plains—Particulars at Sale—unless this execution is previously satisfied.
CORNELIUS PROUT,
8525 Under sheriff.

IN THE VICE-ADMIRALTY COURT OF NEW SOUTH WALES.
Beard and others *v.* Cutter *Waterwitch*.
BY virtue of a decree of sale in the above cause, the Marshal will cause the said vessel, her tackle, apparel, and furniture, to be put up to sale, on TUESDAY, the 2nd day of January next, at 12 o'clock at noon, at the Royal Hotel, George-street, Sydney. Dated 23rd December, 1843.
ALFRED ELYARD,
Marshal of the Vice-Admiralty Court of New South Wales.
8559

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LAW INTELLIGENCE.

SUPREME COURT.

SATURDAY.—INSOLVENT JURISDICTION.

BEFORE the three Judges.

IN THE MATTER OF THOMAS BRENNAND, AN INSOLVENT.

Sir JAMES DOWLING pronounced the following decision:—On the last day of last term, Richard Windeyer, Esquire, applied *exparte*, for an order on the Chief Commissioner of Insolvents, to call a special meeting of creditors, to be allowed to prove a debt against the estate of the insolvent Thomas Brennand, upon the footing alleged to have been unquestioned (only as to amount) by the insolvent or his legal advisers. The Court took time to advise upon the application, but the pressure of other judicial duties has prevented as early a decision as might be desired.

The real object of the application was, I apprehend, to obtain a revision of the decision pronounced by this Court on the 30th October, on cross appeals. Four principal grounds were taken, 1st. That part of the decision of the Court on that occasion was founded on a point not in issue between the parties. 2nd. That it was never disputed by the insolvent or his other creditors, that Mr. Windeyer was entitled to prove for something *as a creditor*. 3rd. That Mr. Windeyer was ignorant of the grounds of the insolvent's cross appeals against the decision of the Chief Commissioner allowing Mr. Windeyer to prove for the sum of £5170. And, 4thly. That the Court had not all the circumstances of the case before *it*, now supplied by the affidavits of Mr. Windeyer and others, disclosing facts not pointed out to the notice of the Court on the hearing of the appeals.

This motion, although made by Mr. Windeyer in person, was open *in limine* to the objection, that after the decision by the appellate jurisdiction upon the whole matter laid before the Court below, and brought up on appeal, it was not competent for him to re-open the case,—especially upon other facts and circumstances not presented in an earlier stage of the proceedings. If the Court had adhered to the strict rule in such cases, the violation of which, if generally countenanced, would lead to the most obvious inconvenience, the matter could not have been again heard, and the party affected left to such remedy as he should be advised. Yielding, however, to the personal position of Mr. Windeyer in the transaction in question, no obstacle was opposed to a rehearance, from an anxious desire to correct any error into which the Court might have fallen, from a supposed hasty determination of a case in some degree involving (as it seemed to be felt) the character of a member of a body, whose honour, high tone of feeling, gentlemanly bearing, and purity of action, the Judges have, on public grounds, the deepest interest in maintaining. These considerations only induced the Court to relax a rule in Mr. Windeyer's favour, by which, in the cause of other suitors, the Court would have been bound to abide.

For nearly four hours on the last day of term, Mr. Windeyer argued his case with zeal, ability, and integrity, to which was superadded a tone of sincerity calculated to make a deep impression.

Since the former decision I have bestowed the most anxious attention upon the old as well as the new matter, which Mr. Windeyer was allowed to introduce, and it is with regret I am bound to declare that I have not been persuaded of the propriety of granting the application, nor convinced of the error of the substantial ground taken by the Court in its former decision.

The main objection to the former decision is, that the Court pronounced judgment on a matter which was not in issue between the parties; namely, as to the validity in equity and good conscience of the instruments by which Mr. Windeyer sought to prove his claim to come in as a creditor of Brennand's. According to the case as reported by the learned Judge, who first heard the matters of the cross appeals, the very gist of the contest was, not whether those instruments were in fact entered into by Brennand *bona fide* with his eyes open, voluntarily, and with full knowledge of their contents; but whether they were not, according to the argument of Mr Foster (on a former day) a mere "cloak" to cover a claim for a demand really not due, and which would be void as against creditors. In the consideration of that aspect of the case was necessarily involved an enquiry into the origin and circumstances how it happened, and for what purposes the mortgage securities were entered into by the insolvent. It may be that there was no "issue" raised in the technical sense of the word, as to whether there was simulation, clandestinity, or fraud, in the transaction. On the part of the insolvent, indeed, such an issue could not, with any colour of propriety, be raised; he being the first to make overtures to Mr. Windeyer to enable him to retain the ostensible proprietorship of the land, in order to obtain a secondary grant by the use of Mr. Windeyer's capital in effecting the improvements required by Government, to be made by the holder of a primary grant before he could entitle himself to a secondary one. But this Court could not shut its eyes to the very grave question evoked, when the whole proceedings in the case were brought under the view of the Court upon appeal. The Court was bound to notice what savoured of contrivance to defeat the policy, on the appellant's own showing, of the Crown in making secondary grants. In one of the affidavits made by Mr. Windeyer, it appears that the Government regulations required an expenditure of upwards of £2000 within seven years, in improving a primary grant when made, and that the party must show a certain capital before obtaining the secondary grant. The question then naturally arose whether the mortgage deeds, based upon the agreement of the 1st March, 1838, could be otherwise regarded than assimulated, to cloak a demand arising out of a transaction touched with the infirmity to which I have alluded. It is too technical an argument, therefore, to say, on a proceeding of this kind, touching proof of debts, that there was no direct issue raised, as to the original foundation of the mortgage securities.

With respect to the second objection, that it never was disputed in the Court below that Mr. Windeyer was entitled to prove for something as a creditor of the estate, it appears from the proceedings that the question was not whether Mr. Windeyer was entitled to prove as a general creditor against the estate of the insolvent, but at what value his mortgages should be estimated with reference to the money actually received by the insolvent, and the value of the improvements made by Mr. Windeyer on the land, together with interest at 15 per cent., in order that the trustees might redeem the mortgage at such estimate, if they were of ability so to do. Acting upon that principle, the Chief Commissioner allowed Mr. Windeyer to prove to the amount of £5170. With this decision both Mr. Windeyer and the insolvent's trustees were respectively dissatisfied, the former maintaining that he was entitled to prove for £12,363 0s. 4d., standing upon the mortgage as a *bona fide* security; and the latter, that Mr. Windeyer was entitled to prove for nothing, on the ground that he had always looked to the land itself, and that only, as a security for the money originally advanced, and the value of the improvements. Cross appeals having been lodged and entered, in point of fact the argument was heard in the first instance without any formal document filed on either side; but they were afterwards filed *pro forma nunc pro tunc*. The matters of them came on to be argued before His Honor Mr. Justice Burton, who was on a subsequent day prepared to deliver his opinion, with the concurrence of the other Judges adverse to the claim, when Mr. Windeyer prayed that the case might be argued before the full Court. It may be that Mr. Windeyer did not see, and was ignorant of the contents of the appeal lodged on the part of the insolvent and his trustees; but it can scarcely be maintained (from the course of the argument taken in the Court below) that he was not fully informed of the grounds on which the insolvent's trustees resisted the claim. Those grounds were again debated by the learned counsel who argued the case before the full Court during last term. The third objection, therefore, taken by Mr. Windeyer, that he was ignorant of the grounds of the insolvent's cross appeal, seems scarcely well founded.

The remaining question then is, whether Mr. Windeyer has presented such new circumstances as ought to change the opinion of the Court upon the substantial ground on which they have determined that he is not entitled to come in as a creditor.

The object of the affidavits, it was announced, was not so much to gainsay the facts on which the Court formerly proceeded, as to supply links of continuity and explanation, and thereby to remove unfavourable impressions which might arise from a consideration of the facts taken detachedly.

Mr. Windeyer produced several affidavits, and, amongst others, one made *by himself*, entering into a history of his transactions with the insolvent, to which was appended the copy of another affidavit of his, intended to have been used by him in answer to an affidavit made by the insolvent at Chambers, but withdrawn from the files of the Court; but of which a copy was now produced, together with an examined copy of the bill filed in Equity by the insolvent.

The new and most material circumstance to be collected from these affidavits, evidenced as well by the statement of the insolvent's bill in Equity, is, that it was agreed between the parties, that the indenture of the 27th February, 1838, by which the insolvent sold and conveyed to Mr. Windeyer his order to select 2560 acres of land, should be abandoned, and the new arrangement of the 1st March, 1838, entered into; by which Mr. Windeyer was to regard and treat the insolvent as owner of the land when selected—he to improve it with his own means to such value as would entitle the insolvent to a secondary grant, and stipulating for such security as he should require, at fifteen per cent.; and also for one-half the secondary grant, when obtained, or the value thereof if sold.

With the exception of this new feature, nothing appears to me on the affidavits materially to vary the prominent facts which arose, whether Mr. Windeyer was entitled to be ranked as a creditor of the insolvent's estate.

Adverting again to those facts, they appear to be these:

In February, 1838, the insolvent, being possessed of a Government order to select 2560 acres of land, wants to borrow money on it of Mr. Windeyer. He refuses to lend money on it, but offers to buy it out and out for £800, to which the insolvent agrees, and executes the indenture of the 27th February, 1838, covenanting to select in such place as Mr. Windeyer should desire, and then effectually to convey the land in fee. At this time, Mr. Windeyer had in view that the land should be selected at Raymond Terrace, adjoining some swampy property of his own, which could be improved and become highly valuable by draining. Having become possessed of the order, he reflects on the hardship of depriving the insolvent of the chance which he would have of a secondary grant, if he still retained the order, and had means of improving the primary grant when obtained to the extent required by the Government regulations. He, however, explains to the insolvent the reasons why he desires himself to have the land, and nothing but the land, which though then of little or no value, would become of great value in his hands when improved by draining, in common with his own land at the Terrace. Moved by considerations of kindness towards the insolvent, he then listens to an overture from him, that a fresh agreement shall be entered into with a view to his obtaining the secondary grant by means of improvements to be effected by Mr Windeyer, and holds out as an inducement that Mr. Windeyer shall have such security as he at his own valuation of the land to himself may require at 15 per cent., and the like interest upon such money as he shall lay out in improvements, and half the secondary grant, when obtained, or half the value, if it should be sold. Mr. Windeyer yields to this overture, and consents to the arrangement, not intending, however, to avail himself of the stipulation for having half the secondary grant, unless he should be put to any trouble or expense not contemplated. The indenture of the 27th February, 1838, was then abandoned, though not in fact cancelled, and remained in Mr. Windeyer's possession. We must take it however, as beyond dispute, that both parties regarded it as abandoned, and as if it had never been executed. The agreement of the 1st March, 1838, was then entered into. The land was selected at Raymond Terrace, adjoining Mr. Windeyer's own land, and the grant having been made out in the insolvent's name, arrangements are entered into to secure Mr. Windeyer on the footing of the agreement of the 1st March. An estimate is made by Mr. Windeyer of the value which the land would be of *to him* had he become the actual purchaser of the order to select, and obtained the grant. At first it is estimated at £10,000, but ultimately it is agreed to be considered of the value of £5000, and the insolvent appears satisfied. Accordingly on the 16th March, 1838, before a shilling is laid out in improvements, the insolvent executes a mortgage for £5000 as for *money lent* by Mr. Windeyer, and received by him on the security of the land, and for further advances for improvements at 15 per cent. payable half-yearly. This instrument it must be taken was freely and voluntarily executed by the insolvent, with his eyes open, with full knowledge of what he was doing, and that he was signing a receipt on the deed for £5000, when he had not in fact received anything from Mr. Windeyer beyond the £800, agreed to be paid for the original order to select. Upon the execution of the mortgage Mr. Windeyer is let into possession of the land in pursuance of the agreement of the 1st March, for the purpose of making the improvements with his own money, and he has the services of some of the convicts assigned to the insolvent in virtue of his grant. But for the agreement of the 1st March, it would have been regarded as unusual for a mortgagee to be let into immediate possession of the land upon which a mortgagor had borrowed money for the purpose of making improvements. Regarding this, however, as a *bona fide* transaction, and that the insolvent had covenanted to pay interest half-yearly at 15 per cent. upon the principal sum of £5000, it would have been satisfactory to have seen some proof of a demand for interest before the second mortgage of June, 1841, was executed. The absence of any such proof would seem to import that although the transaction was evidenced by solemn instruments, under seal, it was then only colourable.

In August, 1840, Mr. Windeyer having made improvements with his own means, the insolvent, who had in the mean time visited the land, and appeared satisfied with what had been done, applied to Government for a secondary grant, according to the regulations which required proof of an expenditure by him of £2100 in improvements, and that he had capital to cultivate the secondary grant. The form of the application and the statements in it are no part of the present enquiry. It now appears that the application was refused on the ground that the Government had ceased to make free grants. Being informed of this refusal, Mr. Windeyer then, for the first time, desired to have the land conveyed to him according to the original agreement. Could this circumstance escape observation, as indicating the light in which Mr. Windeyer himself then viewed the transaction? The insolvent prayed for a year to appeal to the home government upon the subject of his secondary grant. Mr. Windeyer consents to this, upon condition of his executing a further mortgage, as the issuing of the first grant in the insolvent's name had vested the legal estate in him. At length he consents, and he gives the mortgage of June, 1841, to secure £7386 19s. 8d., including the interest then due on the first mortgage, which was to become principal, at 15 per cent., promising to get Mrs. Brennand to bar her dower. It appears that this second mortgage was not in fact executed until Mr. Windeyer had written to the insolvent to assure him that *he looked only to the land for payment* we may fairly collect from the whole of that letter, that this declaration was made upon a full expectation and understanding on the part of Mr. Windeyer, that Mrs. Brennand would, according to the insolvent's promise, become a party to the mortgage, to bar her dower.

Take it that the insolvent has grievously broken faith with Mr. Windeyer, and has used him very ill in not completing his engagements, solemnly entered into, the question is, whether this mortgage, under the circumstances in which it was entered into, could be received as proof on oath of a debt of £12,363, "justly and truly" due from the insolvent, in the face of all the circumstances now enumerated with Mr. Windeyer's declaration superadded, that he looked only to to the land for payment?

From first to last Mr. Windeyer appears to have wanted the land. He first buys the order to select, with a view to have the selection made adjoining his own land, which cannot be advantageously improved without the possession of the remainder of the swamp. Out of good nature and kindness, he lends himself to the views of the insolvent in abandoning the sale of the order, and allows him to be still the owner of the order, but stipulates that if he is to be so,—he must give security upon the land when selected, at the value it would be unto him, namely, £5000 at 15 per cent., and he agrees to improve the land by laying out a certain sum of money, also at 15 per cent., to enable him afterwards to obtain a secondary grant. The only real consideration at that time given for the mortgage was £800, the price of the original order. Wanting to have the land, it is obvious that the object was to secure it by imposing such terms of mortgage as should ultimately indemnify him for the loss of it, by redemption, upon a speculative value which it might be of to Mr. Windeyer, when improved. The arrangement has failed. Mr. Windeyer's object is accomplished. He has got the land, and whatever value he has set upon it, he must take it at that value. He valued it at £5000. The insolvent in fact got but £800: he cannot have the land, and also the price or value of it secured by a mortgage, for which there is in fact no consideration beyond £800. Whatever has been spent by Mr. Windeyer beyond the £800, he has himself the benefit of it, and he must be bound by his own acknowledgment that he looked to the land only as his security. Little real weight could be attached to the want of any stipulation in any of the instruments, except the last, respecting Mrs. Brennand's dower; nor was it material to consider after the sale of the order to select whether any right of dower would attach as soon as the grant was issued. The true question was whether the two mortgages were intended by Mr. Windeyer as any thing more than as a means of holding the insolvent to good faith, in the event of his failing to convey the land under the primary grant free of incumbrance. It was candidly admitted by Mr. Windeyer, that his object in seeking to prove the debt after the refusal to bar dower, was to use the proceedings as a weapon to compel the insolvent to perform his main contract,—*namely*, to secure a good title to the land.

There is no disputing the seeming validity of the mortgages as instruments duly executed, nor can there be any doubt after what has been duly sworn, that Mr. Windeyer looked upon them as binding and *bona fide*, but the question for the Chief Commissioner below was, whether they were proveable as debt against the insolvent personally. The money originally advanced, and the value of the improvement with interest, might be proveable against the land, and in that way the proof was received by the Chief Commissioner. The money, professed and stated on the face of the mortgage deed to have been paid, was never, in fact, paid; although the insolvent by the deed acknowledges to have received it. When the contrary was proved, it came to be simply a question whether, under such circumstances, the mortgagee could prove as against other creditors, the amount of the supposed consideration. The position taken up by Mr. Windeyer is untenable, because the instruments were freely and voluntarily executed and intended by both parties at the time to be valid, and binding therefore as against creditors, the money stipulated to be paid was provable as a debt, and this in the face of his own acknowledgment, that he only looked to the land for security.

The error into which Mr. Windeyer has fallen is that he has lent himself to a transaction which when it comes to be sifted cannot be upheld. Having originally bought the order to select, there he should have stood. According to the affidavits before us, the insolvent prevailed upon him to take something else in lieu of the order, knowing that the real object of the insolvent was to obtain a secondary grant,—in fact to get out of the Crown 2560 acres of land, which he could not have gotten if he sold that instrument. Although Mr. Windeyer might believe from the insolvent's representations that he had the means, or could borrow them, of improving the land to the requisite extent to entitle him to a secondary grant; yet, still he stipulates for a mortgage security upon a valuation of the land as a *money payment*, when in fact nothing was paid on the footing of that valuation, and requires interest at 15 per cent., *as* if it had really been paid. Be it that the insolvent has acknowledged the receipt of the money under his hand and seal, can such acknowledgment be taken against the truth, to the prejudice of other creditors?

I agree that it is not giving things bad *names* that will make them *bad*; but call this transaction by any innocent name of which it is susceptible, it cannot be denied that it was a *contrivance* to benefit the insolvent by obtaining land from the Crown without *bona fide* consideration, and at the same time so to bind him up that he should keep good faith with Mr. Windeyer.

The Court is bound to believe what Mr. Windeyer says, that he acted from pure motives of Christian charity and kindness to the insolvent, and that he really thought there was nothing irregular or unlawful in changing his position as a buyer of the order, and then becoming a *nominal* lender by way of mortgage on the land itself to enable the insolvent (for the intention cannot be concealed) of becoming entitled by Mr. Windeyer's assistance alone, to a secondary grant. In a Court of justice, however, we must look to the transactions of mankind according to their legal effect; Mr. Windeyer has a right to be acquitted of any any sordid motive of a personal nature, as he strenuously disclaims it, and insists that he really never intended to avail himself of the stipulation for half the secondary grant, should it have been obtained. Viewing the case in all its bearings, however, I have been unable to shrink from the position of holding that, Mr. Windeyer has no right to prove anything as a creditor against this man's estate, he having from first to last looked to the land as his security, and by his conduct regarded the mortgages only as instruments to be used for compelling the insolvent to convey a good title.

MR. JUSTICE BURTON: The judgment of the Court having been already delivered in this case, it may appear unnecessary to add any thing to what has been already stated, as the grounds of that judgment. But as Mr. Windeyer has been heard upon an application of a very novel nature,—in fact, has been admitted to comment upon the grounds upon which the Court's decision has proceeded, upon a motion to refer his claim back again to the Commissioner of Insolvent Estates, to be reconsidered, I think it right to state briefly the reasons which induced me originally to concur in that judgment, and which still induce me to adhere to it.

The questions argued before me, sitting alone, and before the full Court also, were not merely as to the amount of claim which Mr. Windeyer was entitled to prove, but also whether he was under the circumstances entitled to prove for any amount.

In these questions, not Brennand alone, but the trustees and creditors of Brennand were interested; for the proof was not sought to be enforced against Brennand personally, but against his estate; and although its effect ultimately in the condition in which the insolvent estate is, might become that of a final judgment against Brennand, for any deficiency after the distribution of his assets, and for which he may remain personally liable until he obtains his certificate of discharge, yet the trustees and creditors were sufficiently interested to dispute the proof of the debt against the estate, and it was the duty of Brennand himself, under the Act, to dispute it.

Both questions, therefore, were fairly before the Court for decision.

1st. Whether Mr. Windeyer was entitled to claim anything against the insolvent estate.

2nd. If so, what amount.

The facts of the case were correctly stated by the Chief Justice, when His Honor delivered the judgment of the Court in the last term: these facts were collected from Mr. Windeyer's statement on oath before the Commissioner of Insolvent Estates, and from the documents produced before the Commissioner; and it was thence that the Court drew the inferences of which he complains.

The insolvent, in February, 1838, had obtained from the Government an order to select four sections of land; to be granted to him of the mere bounty of the Crown, under regulations then in force; he advertised his order to select for sale; manifesting, by that act, an intention of not cultivating the land to be selected, and granted himself; but merely of turning his right to select into money, by selling it to some one else; and not even having the selection of any particular land for his own benefit in view; but being open to select in any locality where the purchaser of his right might choose.

Mr. Windeyer became the purchaser, at the price of £800, and on the 27th of February, 1838, took a formal assignment from Brennand, by an instrument in writing reciting, "that Brennand was possessed of, or otherwise well entitled to, an order or authority from Her Majesty's Government to select four sections of land in the colony of New South Wales, and had a just claim to a grant of such land, and that he had contracted with Mr. Windeyer for the sale to him of the said order or authority and claim."

By that instrument, Thomas Brennand "In consideration of the sum of £800, granted, bargained, sold, assigned, transferred, and set over the said order, and all his right, title, and interest therein, to Richard Windeyer, his heirs, executors, administrators, and assigns," and covenanted "that he should, upon the request of Mr. Windeyer, select the four sections of land so as aforesaid due to him wherever the said Richard Windeyer, his heirs, executors, administrators, or assigns, should in writing appoint;" "that he would not without the express consent or direction of Mr. Windeyer select the said land, or in any way incumber or prejudice the same;" and "that he should, at the request of Mr. Windeyer, his heirs, executors, administrators, or assigns, make, do, and execute, all such further and other lawful acts, deeds, assignments, and assurances in the law, for the better enabling him to receive and take the said order; and when the land to be selected by the said Brennand should have been selected, that he would, from time to time, and at the request, cost, and charge of Mr. Windeyer, execute all necessary acts, deeds, conveyances, and assurances, for properly and absolutely conveying and assigning the said land so selected, and every part thereof, unto the said Richard Windeyer, his heirs, and assigns."

On the 1st of March following, Brennand had selected the land; for in an instrument of the latter date, it is recited that "it had been lately selected by him."

Under this state of the case there can be no doubt whatever that Brennand became a trustee for Mr. Windeyer; the latter being entitled to demand a conveyance of the land from Brennand to himself when the grant should have issued to Brennand.

That no other right or title vested in Mr. Windeyer, and that there was nothing else to reconvey, is equally clear; but it is clear also that no oral rescinding or abandonment of that right, could have deprived Mr. Windeyer of it, or have been a bar to its enforcement in equity.

The agreement of the first of March made no difference in the relative rights of the parties; it stipulated for improvements to be made on the land by Mr. Windeyer, to a certain extent, and for security to be given on the land, by Brennand, for the amount of those improvements. Mr. Windeyer, however, having, meanwhile, a clear and indefensible security, and which had not been rescinded by any act competent to do so, viz:—a right in equity to have the identical land on which the improvements were to be effected by the outlay of his own money, and on which Brennand was to give security, "absolutely conveyed and assured unto the said Richard Windeyer, his heirs, and assigns" in the terms of the first deed.

A few days after the date of this instrument, namely, on the 16th of the same month, and also before the issuing of any grant to Brennand,—whilst, his title in law to the land selected was in fact as merely inchoate as when the transfer of his order to select was executed,—within a month of the execution of that transfer,—and whilst it was still existing, and must still be fresh in the recollection of the parties,—and before either of the bills of £200 each for part of the consideration money for that transfer was due,—when consequently, £400 only had been actually paid,—a mortgage in fee was executed by Brennand to Windeyer of the land selected, to secure £5000, recited and acknowledged as money lent and advanced by Mr. Windeyer to Brennand; and for such further sums as should be expended in making the requisite improvements, bearing interest at 15 per cent.

The land was at that time of as little value as when the order to select was so recently before sold to Mr. Windeyer for £800; Brennand was still without his grant, and the land was unimproved. The position of the parties was however so far changed that Mr. Windeyer may be considered as having thereby obtained an equitable right to have from Brennand a mortgage when he should obtain his grant of the land; whereas, under the first instrument, he was entitled to have the land itself conveyed to him.

The sum, however, fixed as the price at which only the land should be redeemable, was such as to make it in effect irredeemable, and thus to give Mr. Windeyer the opportunity, although by a different process, of obtaining, at any time, the full dominion of the land, as effectually as he could by enforcing the first agreement; whilst it enabled him, without endangering his own interests, to comply with Brennand's request, to be allowed to have the grant issued in his name, in order that he might afterwards entitle himself to a secondary grant. In this state as to their relative rights, the parties continued (Mr. Windeyer however being in possession of the land, and making improvements on his own plans) until the 20th February, 1839, when a grant issued to Brennand in the usual form, and was deposited with Mr. Windeyer.

In August, 1840, the amount of the improvements was such as apparently to entitle Brennand to apply for a secondary grant; he did so, and was refused.

During all the intermediate time which had elapsed between the date of the first transaction and the issue of the grant in 1839, Mr. Windeyer rested upon his imperfect title of 16th March, 1838, to an equitable right to have a valid mortgage executed.

But on the failure of Brennand's application for a secondary grant, he applied to Brennand "*to convey him the land according to their original agreement*;" "*why not?*" it may be asked, "apply to him for a mortgage;" unless that original agreement were then considered as still existing. Brennand begged that Mr. Windeyer would give him a year to appeal home, which Mr. Windeyer consented to do; a year elapsed, and some time in October 1841, a mortgage in fee of the same property was executed by Brennand to Windeyer, dated in June, 1841, for the original sum of £5000, and the arrears of interest added to the principal, amounting in all to £7386 19s. 8d.; this forms one of the items of Mr. Windeyer's claim.

It was during the time when negotiations were going on to complete this mortgage that Mr. Windeyer gave Brennand the written acknowledgment that "he looked only to the land for payment."

At this period Mr. Windeyer and Brennand disagreed; Brennand's wife having refused to join in the mortgage deed, to bar her dower; and an action was subsequently brought by Mr. Windeyer against Brennand, in this Court, for arrears of interest on the mortgage deed, and a judgment recovered for the amount; which forms another part of his claim: Brennand surrendered his estate, and became insolvent. Mr. Windeyer claimed to prove for the full amount of his mortgage, and interest thereon, at 15 per cent, and for the amount of his judgment.

Now there are two views in which this transaction has been regarded; one, that the real position of the parties under the first assignment of the order to select was never changed, the execution of the subsequent mortgages being merely colourable. The other that the original assignment was in fact abandoned, and the mortgages taken in lieu.

Upon the first of these views the judgment of the Court mainly proceeded: Mr. Windeyer strongly contends for the latter; and in terms which convince me that he undoubtedly believes that which he states. His personal feelings in the matter, however, have in my opinion led him to deceive himself; and the inferences which force themselves upon one's mind in viewing these transactions, so strongly lead to the conviction that the construction which in the judgment delivered was put upon them, was correct, that no one, even Mr. Windeyer himself should be surprised if that construction is in his opinion erroneous.

It is a matter, however, upon which the Court is not at liberty to look for its construction to the warm assertions of parties interested, emanating although they may from the most conscientious belief of the party making them, of their truth; but must look instead to the ordinary evidences upon which human judgment proceeds, the acts and deeds of the parties.

These then are, that Brennand first sold absolutely all his interest in the order to select for £800.

That within a few days afterwards he entered into a second agreement, not rescinding the first transaction, nor reciting it, but inconsistent with it, reciting that Brennand, upon making certain improvements on a primary grant of land, lately selected by him near Raymond Terrace, would be entitled to a secondary grant of similar extent.

That he had requested Mr. Windeyer to make the improvements, and the latter had consented so to do, upon being secured repayment of the advance to be made by him for that purpose; which Mr. Windeyer covenanted to do; and Brennand covenated that he would place under his charge, or that of his overseer, as many assigned servants as he might be able to obtain on the said grant; and that on the completion of the improvements, he would apply for his secondary grant; and do his utmost to obtain it, and on obtaining it would convey half of it to Mr. Windeyer.

That no more than the sum of £800 (indeed not that amount) had been paid to Brennand when the first mortgage for £5000 and interest at 15 per cent. was executed, so soon after as within less than a month of the first transaction.

That the land was selected upon Mr. Windeyer's dictation, in a situation which could not be serviceable to Brennand without draining through Mr. Windeyer's land, which Brennand could not do; but it was calculated by such draining it would become very valuable to Mr. Windeyer.

That Mr. Windeyer, not Brennand, entered into the possession of the land selected, and has had possession of it ever since.

That the improvements made were the suggestions of Mr. Windeyer's mind, and not Brennand's; and paid for by Mr. Windeyer with his own money, and not by Brennand with money advanced to him for the purpose.

That the original transaction was never rescinded in any way that could be binding on Mr. Windeyer.

That no interest was ever paid or demanded from Brennand, until after his failure in obtaining a secondary grant, when an action was brought for it and judgment recovered.

That Mr. Windeyer avowed his intention in obtaining that judgment to be to take the equity of redemption in execution.

That the inconsistency between the two instruments, 27th February and 1st March, or alteration in the transaction if it were such, avowedly proceeded from an intention on the part of Mr. Windeyer to enable Brennand to obtain a secondary grant.

That when Brennand failed in obtaining a secondary grant Mr. Windeyer reverted to the original contract, and called upon him to convey according to the original contract the equity of redemption in the property to him.

That Mr. Windeyer gave Brennand a written acknowledgment in 1841—that he looked to the land only for payment.

Now looking to all these facts, and bearing in mind that Brennand had equally deprived himself of all beneficial property in the lands under either instrument, the sale, or the mortgage; that he could only obtain assigned servants in respect of the first lands and a secondary grant, upon the ground of his continuing the proprietor of the first, and upon laying out the requisite sum upon it, and that the change in the two positions was avowedly made for the purpose of enabling him to obtain a secondary grant, can the conclusion be called forced, unnatural, unreasonable, or unfair, that Mr. Brennand, in order to cheat the Government, by a false representation *that he had not alienated the land, and that he had made the requisite improvements thereon*, framed and proposed an ingenious plan by which this should be accomplished, and that Mr. Windeyer, knowing all the circumstances, lent himself to his invention.

But although it would be doubtless satisfactory to the Court, and due to Mr. Windeyer, if it could do so, to arrive at the contrary conclusion, that the original sale was effectually rescinded, and that the subsequent true position of the parties was that of mortgagor and mortgagee, still it is quite clear that Mr. Windeyer would not be entitled to prove anything against the estate of Brennand; because his security is of larger amount, as valued by himself, than the debt which, as against the estate, he is entitled in equity to prove.

That debt would, in such case, be the amount allowed by the Commissioner. It could not be contended that if Brennand had become insolvent a few days after the execution of the first mortgage for £5000, when only £800 had been actually paid, and his estate possessed assets to that amount, divisible amongst his creditors, that Mr. Windeyer could be permitted, as against those assets, to prove for and obtain a dividend to the amount of his mortgage less than the value he should put upon it under the Insolvent Act.

Yet this must be held by the Court, if the Court were to hold that as against the estate of Brennand, Mr. Windeyer was entitled to prove more than had actually been advanced, with the interest. And it makes no difference in the principle of the case, whether the insolvency took place within three months or three years of the transaction; or whether there were assets to be divided or not; it was not good as against creditors.

The real amount which Mr. Windeyer, regarding him as a mortgagee, was entitled to prove against the estate was £5170, being the sum of money advanced in the first instance, the amount afterwards laid out upon the land, and the interest on both.

But, being required by the Act to put a value on oath upon his security, and having assigned to it the value of £6000, he is bound by that valuation; it exceeds the amount of his claim, and he cannot, therefore, prove against the insolvent estate for anything. The Commissioner could not lawfully allow a subsequent alteration in that value; the Act allows no such alteration. The security the law takes for the valuation is the oath of the party making it; and it would be treating that oath as a matter of form, instead of conscientious obligation, to allow a valuation so made, to be receded from by the party making it.

Therefore, Mr. Windeyer had no right to prove any debt against the insolvent estate of Brennand.

MR. JUSTICE STEPHEN: I entirely concur in the opinions and judgment which have been pronounced by the other members of the Court. With every desire, on many accounts, to bring my mind to an opposite conclusion, I have been quite unable to do so. I have reflected on every argument and topic urged by the learned gentleman, who has so anxiously appealed against our former decision: I have carefully read every portion of the affidavits, and their annexures, brought under our notice by him; and I not only remain of opinion that his claims cannot be sustained; but I find it difficult to understand, considering all the circumstances, how it would be possible to arrive at any other result.

Those circumstances have been so fully recapitulated, either on this or the former occasion in detail, that I need only in this place advert to some of them. Into the statements of the opposing parties themselves, I shall not at any length enter; for it is impossible to reconcile them in any degree, on the points chiefly in controversy, and neither is it entirely supported by the documents, to which, under such circumstances, I have necessarily adverted, to solve the difficulty.

That the appellant sincerely thinks himself in the right, and that he has advanced nothing but what he believes to be true, I am very far indeed from disputing, or desiring for one moment to dispute. But, in the position in which a painful discussion of this nature involves a Judge it becomes his duty to determine only on evidence. He is to weigh probabilities, as they are to be collected from undisputed portions of the case; to put out of view the station of the litigants, respectively; to look beyond the mere appearances of things, and regard, as far as may be, their effect and substance; and to decide, on these conditions; having respect to what appears to him to be just, careless of all other consequences.

The facts, then, which are not in dispute, or which are too well established for successful dispute, on either side, I find to be the following. In February, 1838, the insolvent was possessed of a Primary Location Order, or Right of Selection as a Settler, for 2560 acres of Land. He is in straitened circumstances, or labouring under temporary embarrassment; and he sells this Right or Order to the appellant for £800, of which one-half was paid in cash, and the other payable in three and six months. He had wished to borrow this money on the Order; but this was refused, and it was explained to him that the appellant's object would be answered, only, by an *absolute purchase*. An instrument under seal is then prepared and executed, for carrying the latter arrangement into effect.

A good deal has been said as to the actual position or title of the parties under that instrument, in point of law. I think, however, that this is a consideration on which the merits of the case, and the question or questions to be decided by us, do not at all depend. We all know,—any attorney's clerk in his first year would know,—what that position was. The purchase was that of a mere privilege; and no title could be conveyed to or in the land itself until after the issue of the expected Crown Grant. But, according to common understanding and usage, in these colonies, forming plainly the basis of these transactions, the ownership was as much trafficked in, and dealt with, in the eye of each party, as if the legal estate was then already granted, and capable of formal transfer.

Some discontent and negociation ensued between the parties, immediately after the execution of the sealed instrument; and, on the next day but one, articles of agreement are drawn and executed, by which the land (although not distinctly or in terms described as the insolvent's,) is stated to have been lately selected by the insolvent; and it is recited, that on making certain improvements thereon, he (the insolvent) would be entitled to a secondary grant—in other words, an additional *gift or estate from* the Crown—of similar extent. And then the appellant, in consideration of being secured payment of his advances with 15 per cent. interest, and of receiving half such secondary grant when obtained, agrees to expend £2200 in effecting the improvements required, within five years. The insolvent, on his part, undertakes to do his utmost to obtain the secondary grant, and make over the said moiety when obtained; and, in the mean time, to place on the primary selection, under the appellant's charge, as many assigned convict servants as he may be able to obtain.

Now, what was the true character of this transaction, or what practically and in effect its operation,—so far as it respects the Crown, I do not think it necessary to enquire. On that point, different men, possibly, may entertain different opinions. But, in a view of the position of the parties themselves, it is indispensably necessary to observe and consider the nature and object of the arrangement; for without doing so, we cannot determine the question before us. The appellant states,—and I most sincerely repeat my entire belief, that he is really under that impression—that the transaction throughout was *bona fide*, and no part of it simulated or unreal. And both he and the insolvent alike maintain, that the original purchase was abandoned, and a new arrangement substituted. But what that arrangement was, neither of them is agreed; and the version given by each, is utterly irreconcileable with that of the other. The one asserts, that the condition of repurchase, or abandonment of his right to the selection, call it by what name we may, was £5000,—payable with interest at 15 per cent. at the end of four years,—in addition to, and over and above, the £2200, and interest at the like rate. The moiety of the secondary grant, he never meant in fact to receive; he retained the stipulation, only, as a weapon to compel performance of the insolvent's contract. But, what contract? If to compel payment only of those sums, and interest, there was the primary grant; the mortgage on which, previously mentioned, secured both. If, however, to compel a release of the *equity of redemption*, at the end of the term, then we could understand the matter. The insolvent, on his part, asserts, that the consideration of abandonment was, the repayment merely of the £800 with interest,—and of the improvements with interest,—and the moiety of the secondary grant; with the *ad interim* free enjoyment, in possession, of the primary one.

I then turn to the deeds. I find the agreement already cited. I find no mention, however, in that document of the previous transaction. On the other hand, the original instrument of purchase is not cancelled, but retained in the appellant's possession. I find a mortgage executed shortly afterwards by the insolvent of the land, for securing the sum of £5000; but again, this deed makes no mention of the agreement as to outlay. So that little or no light is acquired alone by these instruments. The mortgage is for £5000, as so much money lent; and this sum is to be paid, with interest at 15 per cent. from the date, half yearly, and interest at the like rate on both in case of arrear. There is a clause, also, securing *further advances* with the same interest; but, whether, by these, the proposed outlay for improvements was intended, there is nothing distinctly, or otherwise than by inference, to show. It is provided, that a memorandum of all such additional advances, if any, shall be indorsed on the mortgage; but I do not find that any such indorsement was ever made.

What was then the real arrangement? In order to solve this, we naturally inquire why there was any reason, not apparent on the deeds, for the insolvent appearing as owner. I perceive at once that there was. The insolvent's affidavit says, that his claim to a secondary grant depended, on his making a certain outlay, *and not disposing of the first*; and the appellant's affidavit adds another condition; namely, that the grantee should *be possessed of a certain qualifying capital*. So that until all question respecting the secondary grant should have been at an end, it was necessary for the insolvent to appear, ostensibly, as owner. But the appellant himself, from the commencement, wished and designed (as he admits) to be, or eventually become, the owner. And he certainly had, throughout, in his own hands, the means of enabling himself to become so.

Thus, to both parties, it was a matter of importance, to establish the particular amount which was to form in effect *the condition and preliminary to the insolvent of ownership*. This explains at once the recent contest before the Chief Commissioner. The appellant sought to prove against the estate a sum of no less than £12,000 and upwards; deducting the value of the land, estimated at £6000:—the claim being made up by the £5000 and interest, and the outlay of £2200 with interest. The insolvent, on the other hand, insisted that he was liable only for the original £800 and interest, with outlay and interest. Could he have established this point, taking the property at £6000, nothing would have been due; but his trustees might have derived some profit possibly from taking it themselves. But, when the matter came before the Court, it assumed a different complexion; and the question was raised, whether the appellant's claim (less or more in amount) was provable,—as against the creditors at all events,—at all:—whether, in other words, he could look farther than the land itself for satisfaction. In this view, we are compelled to search into all the circumstances; and are not restricted to those, only, which are ostensibly the facts on paper. Proceeding thus, I find not only what has been already stated; but, also, that the appellant has always been in undisturbed possession; that the insolvent never has been so, at any time; that the appellant has been charged with no occupation rent, in any shape; that the preparation of the mortgage, which, in transactions of *bona fide* mortgages, is invariably paid for by the mortgagor, was here defrayed by the appellant; that on failure of the insolvent's application for the secondary grant, the appellant applies to him *to make the property absolutely over to him*. In addition to all this, on the question whether the appellant was entitled against the insolvent or his estate, to prove anything, or must not be left to the ownership which he from first to last meditated,—we have the appellant's express written declaration, given to the insolvent before execution of the second mortgage, *that he looked to the land only*.

Having regard to all these circumstances, it seems to me quite impossible to arrive at any other conclusion than the one which the Court did arrive at; namely, that the appellant has no proveable claim whatever; and that, notwithstanding the impressions which he himself, I doubt not, sincerely entertains of his case, the proof received must be expunged.

This decision renders it unnecessary to consider what sums should have been allowed the appellant, supposing him entitled to prove any. But were this now the question, I should feel under no small difficulty in awarding to him, not merely the £5000 and interest, but the £2200 and interest, as claimed by him in addition. For if he were entitled to both now, he was equally so entitled at the date of the second mortgage, and the £2200 was then expended. Why then, one might enquire, was not this latter sum included in that mortgage? It was an *advance*, and at least as much a *loan* as the £5000 and interest:—and yet for the latter sum only was the second mortgage taken.

I will add, that, even were I of opinion with the appellant on this point, I should be against him on the one taken by the insolvent, respecting his attempted second valuation, I entertain no doubt, that a party claiming under a mortgage security, cannot be permitted to reduce the amount of his *sworn valuation*, as was done here, merely to enable him to be ranked as a creditor of the estate, at all events. Cases of mistake, or misapprehension, will of course form exceptions. I see no reason, why errors of that description should not be corrected. But, to suffer an alteration to be made, like that contended for by the appellant, would be to introduce serious evils and injustice, and to render the clause, which requires the valuation securities, altogether nugatory. That valuation is to be on oath. Why? Clearly, in order that, on a point so important to them, the trustees may have the assistance, and the guide, of the claimant's sincere and real opinion. Here, however, the appellant at first values the property at £6000; claiming to prove £12,000. But on finding that claim reduced by the Commissioner to £6000, suddenly affixes a new value, reducing it at once to £3000. What could have induced this great and rapid depreciation? Simply the desire to have, still, some amount to prove; that by reducing the one amount in proportion to the other, he should still rank as creditor for the surplus. Such a proceeding was, in my opinion, hasty and ill considered; and one which this Court neither can nor ought to sanction.

SUPREME COURT.—INSOLVENCY BUSINESS.

WEDNESDAY.

BEFORE His Honor Mr. Justice BURTON.

CONFIRMATION OF TRUSTEES.

The following appointments of trustees were confirmed by the Court upon the motion of the CHIEF COMMISSIONER.

Estates.	*Trustees.*
John Lynch, and Robert Hollingdale	John Moring.
Edward Kennedy	John Robertson.
Alexander Wm. Hoyle.	James Aylward.
John Ogle	William Neil Monies.
James Mohan	W. N. Monies.
Henry Gain	Thomas Jenett.
John Lackings	James Roberts.
James Bloodsworth	Thomas Smith, and Henry Bennett. *Provisional Trustees.*
James Macbeth	Maurice Reynolds
Francis John King ..	Edward Smith Hall
Bernard Aaron Phillips	Charles Younger and Acton Sillitoe.

PLANS OF DISTRIBUTION.

Plans of distribution were confirmed in the estates of Walter Stewart and John Beeles, upon the motion of the CHIEF COMMISSIONER: the dividend in the first-named estate being 4s. 6d. in the pound, and the last 1s. 7½d. in the pound.

CERTIFICATES.

The CHIEF COMMISSIONER moved that the certificates of John Wedderburn, of King-street, wine merchant, and Patrick Fennell, of Appin, might be confirmed.

His HONOR enquired if the parties alluded to had complied strictly with the terms of the Act as to the proportion of the signing creditors, and the period of notice by advertisement in the *Government Gazette*.

The CHIEF COMMISSIONER having replied in the affirmative, the certificates were ordered to be confirmed.

The Court then adjourned.

ORIGINAL CORRESPONDENCE.

SHEEPSKINS.

To the Editors of the Sydney Morning Herald.

GENTLEMEN,—As you take a laudable interest in everything connected with the welfare of the colony, and as our main object must always be to endeavour by every means to increase our exports, I send you the following, in hopes it may be of use to some one. In a late Edinburgh paper I notice that sheepskins, clipped, are quoted from 3s. to 3s. 6d. As the Scotch sheep are larger than ours, we could not expect our sheepskins to fetch more than 2s. to 2s. 6d.; but even at this price, it is equal to what the whole sheep has often been sold for within the last twelve months. Yours, &c.,

December 18. SIMON SHEEPSHANKS.

To the Editors of the Sydney Morning Herald.

GENTLEMEN,—Permit me the use of your columns to enquire of those interested in the culture of the vine—whether the sandy flats on the sea shores are suitable for vineyards? Mr. Kelman, in his letter in your paper of this morning, recommends sandy soils, because they retain most moisture; it is well known that water can always be obtained on the sea shores by digging: consequently such flats would be particularly desirable; but the point in which there may be doubt is, whether the prevailing north-east wind, or as we call it—the sea-breeze, is likely to affect the growth of the vines: for it is very evident that the growth of some trees is much retarded when exposed to its influence; and yet this seems only to be the case in particular situations only. Trusting that you will give insertion to these enquiries, and that they may elicit some useful remarks, I remain, gentlemen,

Yours, &c.,

A SUBSCRIBER.

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